

## **SPECIAL MEETING OF BERKELEY COUNTY COUNCIL**

**August 29, 2011**

A **special workshop meeting of Berkeley County Council** was held on Monday, **August 29, 2011**, at 6:02 p.m., in the Supervisor's Conference Room of the Berkeley County Administration Building, 1003 Highway 52, Moncks Corner, South Carolina.

PRESENT: Mr. Daniel W. Davis, County Supervisor, Chairman; Mr. Steve C. Davis, Council Member District No. 8, Vice Chairman; Mr. Phillip Farley, Council Member District No. 1; Mr. Timothy J. Callanan, Council Member District No. 2 (arrived at 6:22 p.m.); Mr. Robert O. Call, Jr., Council Member District No. 3; Mr. Dennis L. Fish, Council Member District No. 5; Mr. Jack H. Schurlknight, Council Member District No. 6; Ms. Nicole Scott Ewing, County Attorney. Mrs. Cathy S. Davis, Council Member District No. 4 was excused. Mr. Caldwell Pinckney, Jr., Council Member District No. 7 was absent.

ALSO PRESENT: Attorney Mary Shahid, Nexsen Pruet; Mr. Robert Hauck, GIS; Mr. Frank Carson, Engineer; Mr. Clint Busby, Engineer; Mr. Joe Fersner, Stormwater Consultant.

In accordance with the Freedom of Information Act, the electronic and print media were duly notified.

### **CALL TO ORDER**

Chairman Daniel Davis called the meeting to order. Colin Martin gave the Invocation, and Council Member Fish led in the Pledge of Allegiance to the Flag of the United States of America.

Chairman D. Davis: "With your indulgence we have one procedural matter to take care of, a piece of old business, and then we just need to make a few appointments. But, we do need an Executive Session. To accommodate the room, I'm going to ask that we go into Executive Session, and then we'll go into my office to....and that shouldn't take just a couple or three minutes and we'll be back, and get on with it. So, if I could get someone to make a motion so we can go into Executive Session?"

Council Member Schurlknight: "So move."

**EXECUTIVE SESSION** to discuss matters relating to the proposed location, expansion, or the provision of services encouraging location or expansion of industries, or other businesses in the area served by the County; or discussions of negotiations incident to proposed contractual arrangements and proposed sale or purchase of property, the receipt of legal advice where the legal advice relates to a pending, threatened, or potential claim or other matters covered by the attorney-client privilege, settlement of legal claim, or the position of the County in other adversary situations involving the assertion against the County of a claim.

Chairman D. Davis: "We have a motion. Is there a second?"

Council Member Call: "Second."

Chairman D. Davis: "Motion and a second, any discussion? (No Response) Hearing none all those in favor, signify by saying Aye. (Ayes) All those opposed Nay (No Response). We are in Executive Session and it really should not take but just a couple, three minutes."

*Council entered into Executive Session at 6:05 p.m., and returned to Special Session at 6:14 p.m.*

County Attorney Nicole Ewing: "Yes, Mr. Chairman, Council went into Executive Session for the reason stated in the motion. No action was taken."

Chairman D. Davis: "Ok, thank you. I did want to have...discuss under old business first. The Charleston Water Service Agreement."

## **OLD BUSINESS**

### **Charleston Water System Agreement**

Council Member Call: "Mr. Chairman, I move to authorize the Supervisor to sign the agreement with CPN in accordance with the factors and parameters discussed in Executive Session."

Chairman D. Davis: "Alright we have a motion."

Council Member S. Davis: "I second."

Chairman D. Davis: "Motion and a second, any discussion? (No Response) Hearing none all those in...."

Council Member Fish: "I just need to go on record again objecting that. It's got Goose Creek and other people, it's got my constituents, you know (inaudible) last year before they proposed this through to us. Now, we can spend the money on (inaudible) over on 311. We built libraries and stuff but we can't protect my constituents in my district and I strongly object to it."

Chairman D. Davis: "Ok, so noted. Any other comments or discussion? (No Response) Hearing none, all those in favor signify by saying Aye. (Ayes) All those opposed Nay (Nay) Motion carries."

It was moved by Council Member Call and seconded by Council Member S. Davis to approve the authorization for the Supervisor to sign the agreement with CPN in accordance with the factors and parameters discussed in Executive Session. The motion passed by majority voice vote of Council. Council Member Fish voted, "Nay."

Chairman D. Davis: "Ok. We're going to go ahead and I think the shorter of the two items is probably going to be redistricting so...and we've got a lot of folks here to talk about that and maps to look at."

Council Member Schurlknight: "Tax Assessment?"

**NOMINATIONS FOR MEMBERSHIP:**

**TAX ASSESSMENT REVIEW BOARD**

**Mr. F. Eugene Williams**

**Mr. Tony Owens, Sr.**

**Mr. Wayne Ahl**

**Mr. Robert Newton**

**Mr. Radford Bates**

Chairman D. Davis: "I'm sorry, yeah. Before we do that we need to reappoint the Tax Assessment Review Board. Can I get a motion on that?"

Council Member Schurlknight: "So move."

Council Member Call: "Second."

Chairman D. Davis: "Any discussion?"

Council Member S. Davis: "Do we do that individually or we're doing?"

Chairman D. Davis: "Well if you want. If you want, the ones that are printed on the agenda, it doesn't matter."

Council Member S. Davis: "Right."

Chairman D. Davis: "I'll read them out, Mr. F. Eugene Williams, Mr. Tony Owens, Sr., Mr. Wayne Ahl, Mr. Robert Newton, and Mr. Radford Bates. Do we have a motion that these be reappointed?"

Council Member Call: "I so move."

Council Member S. Davis: "Second."

Chairman D. Davis: "Any discussion? (No Response) All those in favor signify by saying Aye (Ayes). All those opposed Nay (No Response) Those individuals are appointed."

**It was moved by Council Member Call and seconded by Council Member S. Davis to approve the nominations for re-appointment for Mr. F. Eugene Williams, Mr. Tony Owens,**

**Sr., Mr. Wayne Ahl, Mr. Robert Newton, and Mr. Radford Bates to the Tax Assessment Review Board.**

Chairman D. Davis: "At this time we'll have a discussion on our redistricting plan everybody has, you've gotten a copy of the latest version of the map. I think everyone has had the opportunity to comment on it or look at your districts. You know what we're working towards is to get a consensus on the map and then so we can have our public hearings and public comment. Getting it ready to..."

**B. DISCUSSION regarding County Council re-districting.**

Council Member Fish: "(Inaudible) what version are you on?"

Mr. Robert Hauck, GIS: "The most current version is version three which I have here. I did this just today so you haven't actually seen it."

Chairman D. Davis: "Ok. You might want, let's don't use that one then let's get three and give everybody a copy of three."

Council Member S. Davis: "Yeah."

*(Several talking, passing out maps)*

Mr. Gregory Rines, GIS: "Robert's working (Inaudible) got a lot of the lines cleaned up."

Council Member S. Davis: "You already gave...ok great. Thank you."

Mr. Gregory Rines, GIS: "He's done a lot of streamlining with districts and everything's looking good. Some of those anomalies with the tracks and things (Inaudible) got that taken care of. I don't know what else you've done."

Mr. Robert Hauck, GIS: "I guess at this point that version three has all the input I've gotten this far incorporated in (Inaudible). The last few days I've been working on the cleanup for the boundaries. Getting rid of jagged edges to make sure (Inaudible) split subdivisions and while keeping the demographics the same as the previous versions. Now that we're getting to the point of cleaning up the boundaries and getting the compactness of the zones, to be as compact as possible; if there's any input from any Council Members, if we get them as soon as possible because once we really start fine tune lines any changes means you have to start over on all that fine tuning."

Council Member Fish: "I have a question for you. I thought the rule was, keep your areas you had before consistent if you could without changing it."

Mr. Robert Hauck, GIS: "Right."

Council Member Fish: "Before you move it. Now this (Inaudible) this is Oakatee (Inaudible) now out of my district and then they go over to district three. Why would you do that?"

Mr. Robert Hauck, GIS: "There's a...yeah, it's the same time you changed something somewhere. Other things had to change and that was some edits I did today; just trying to get the population numbers to work out. I think specifically...I don't know, which one was Oakatee? Is that..."

Council Member Fish: "I know it's substantial. I got the largest total of people in district 5. You know before, I've honestly seen, I'm talking about this area of Oakatee, which has been in my district forever. You took it out of there and yet moved it over here. Why didn't you leave that there and move this district over here. (Inaudible) than 800, I've got the largest...and we'll play with that but it didn't make sense to me when you've got some people who are 2000 less voters."

Mr. Robert Hauck, GIS: "Yeah."

Council Member Fish: "That looks to me like, and I thought that was easier area to keep intact because that was contiguous. Why did you take it out of there and move it over there?"

Mr. Robert Hauck, GIS: "None of those areas that you added on this current map."

Council Member Fish: "Yeah because you know..."

Mr. Robert Hauck, GIS: "See right here and that had to do with census (Inaudible) and clean up that bottom line, see over here and pick up that here."

Council Member Fish: "All the simple holes in that district and my question is why (Inaudible). It doesn't make sense."

Mr. Robert Hauck, GIS: "Ok, well that..."

Council Member Fish: "But not from 22,800 to 22,000 something up to 22,900 something."

Chairman D. Davis: "Mr. Fish, that's the purpose of this is to look at it and if you have comments then you know, it's still a document and a work in progress and I think GIS has heard from just about everybody. We've still got time to do it. We're going to introduce the ordinance in September. It has until third reading. We've got until third reading to make those changes. Ok, any other? Basically we want to distribute the maps. Please review them and again we're going to have introduction in September and then hopefully we can work out all the concerns in two months and we'll be right on schedule."

County Attorney Nicole Ewing: "(Inaudible) couple of public hearings."

Chairman D. Davis: "Yeah we've got to have public hearings. Is there anything, other than issues about a specific map? Does anybody have anything that they wanted to bring up or have us investigate and get you answers back? (No Response) Ok. At this time...."

Council Member Callanan: "I've got one question actually, because I just noticed it. The law is 10% deviation, right?"

Chairman D. Davis: "I think that's the guideline. I'm not sure it's the law."

Council Member Callanan: "I thought that was State Law."

Chairman D. Davis: "You wanna stay below 10% deviation though."

Council Member Callanan: "No, I think the guideline is 2% but the law is 10%."

Chairman D. Davis: "Whatever, we wanna stay below 10%."

Council Member Callanan: "Ok, this goes above it. Yeah, district 5 and district 7 combined equal above 10% so."

Mr. Robert Hauck, GIS: "It's exactly 10% isn't it?"

Council Member Callanan: "6.93 plus 3.09, that's above....I mean, so it has to be tweaked if this violates State Law. That's the only point I wanna bring up."

County Attorney Nicole Ewing: "We'll take a look at that before first reading."

Council Member Callanan: "3.09 plus 6.93."

Chairman D. Davis: "Ok, any others, and again if you find any issues with it, please let us know and we'll get that resolved. Ok, we'll move on then to the Stormwater Management Utility and I don't know who's going to lead it off. Frank?"

**A. DISCUSSION regarding Stormwater Management Utility.**

Mr. Frank Carson: "I'll lead it off. We...us tonight don't have a presentation per se, it's more of a discussion. We did circulate some questions that we felt like, seemed to be the focus of the Council Meetings, and the Committee Meetings in the past, and then we cover those as sort of a framework. I guess more so with the discussion, we brought resources for that purpose and I just want to introduce the other people who are here. Sonia Shahnaj, is an Engineer in the Engineering Department and has done a good deal of work on the Stormwater Management Program. Clint Busby, is the Deputy County Engineer and likewise Clint has been at this for a long, long time. I think we've been probably together for ten or twelve years since we we're originally faced with the NPDS Phase II. Mary Shahid, is an Attorney with Nexsen Pruet prior to

that, Mary was with McNair Law Firm and in fact represented the Stormwater Manager's Association in an appeal of the original NPDS Phase II permit, and also Berkeley County appeal with Dorchester and Summerville and Charleston, and Mt. Pleasant of that permit. We've shared time in court and depositions and prior to that Mary was legal counsel with a Coastal Council, the predecessors of OCRM. Joe Fersner, is the Senior Project Manager with Wolpert, he's been our Stormwater Consultant for a number of years and prior to that was with Coastal Council of DHEC for about 20 years in charge of...Tell them again what your title was."

Mr. Joe Fersner: "The Stormwater... I was the Project Manager for the Stormwater Division."

Mr. Frank Carson: "So, collectively we've got probably more years of stormwater engineering and regulatory and legal experience, than I care to think about. What we'd like to do is just go ahead and at any point just drop in and ask questions. We have some prepared response but I think we'll get more out of discussion from these folks than necessarily printed material. We also have some other reference material from other sources that we can provide to you. For the first question: *Can stormwater utility fees be imposed by the County within a municipality with the consent and authorization of the municipality?* This comes from, I guess, it's as much a timing matter as anything else. We've mentioned that we've been working with Goose Creek and Hanahan on Intergovernmental Agreements and at some point, we would reach a point where our programs would work cooperatively. It's gonna take awhile to describe what the frame work is. We've already had requests from Hanahan about including a fee for Hanahan on their...on the tax bill coming up. But, this goes more toward imposing the fee without the consent of the municipality. I would like Nicole Ewing to address that please."

County Attorney Nicole Ewing: "The short answer is no. We're adopting the Stormwater Utility Program pursuant to the Stormwater Management and Sediment Reduction Act which is South Carolina Code of Laws Section 48-14-10. And it contemplates entering into jurisdictional agreements between municipalities and the County. It does not authorize the County to go into those jurisdictions without their consent and impose the fee. So, that's what we've found at this point."

Council Member S. Davis: "Let me ask this question, when you adopted the ordinance, right?"

County Attorney Nicole Ewing: "We haven't adopted an ordinance yet."

Council Member S. Davis: "I know, but when you do then, it's just going to be for..."

County Attorney Nicole Ewing: "Unincorporated areas."

Council Member S. Davis: "You would, election and County had a countywide ordinance...How were they able to do that?"

County Attorney Nicole Ewing: "Pardon?"

Council Member S. Davis: "I was looking at some factsheet and Lexington County adopted a countywide ordinance and I know there's got to be some municipalities in Lexington County."

County Attorney Nicole Ewing: "I haven't seen this document before. Without going back and researching when and how they adopted it. Some of the Counties have had Stormwater Utility Fees for 10, 15, 20 years so I'm not sure what authority they adopted it under."

Mr. Joe Fersner: "I can address that."

County Attorney Nicole Ewing: "And Joe obviously knows more..."

Mr. Joe Fersner: "Ordinances referring to, it's just their Stormwater Ordinance, to be able to regulate stormwater in Lexington County. It's not a utility ordinance."

Council Member S. Davis: "I know. Utility means, the creation of something. Everytime I hear you tell me utility, I think like Santee Cooper. You're trying to formulate a management system to do something... I think I..."

Mr. Joe Fersner: "That's correct. It's the funding mechanism in order to operate Stormwater Management."

Council Member S. Davis: "The ordinance though covered the whole county apparently."

Mr. Joe Fersner: "But it wasn't a utility ordinance it was..."

Council Member S. Davis: "No, no, a stormwater and then the county and the municipalities adopted the same ordinance for their purposes."

Mr. Frank Carson: "That's correct, but they adopted, that's the key. They adopted the ordinance. So, just like Hanahan, Hanahan is on a parallel course to adopt a utility ordinance that mirrors our ordinance so if they do that then yes. We can do that in municipality that does that similarly we can mil programs and they'll have the same ordinance; the same language."

Council Member S. Davis: "I ain't got no problem in that aspect. I..."

Mr. Frank Carson: "But timing wise, all those municipalities haven't gotten to that point yet. That's what we're working toward though."

Council Member S. Davis: "Ok, I'll wait."

County Attorney Nicole Ewing: "And again, just in case there is some confusion, the ordinance that is up for adoption next month is a utility ordinance. Not a, if it were specifically pursuant to that statute. So we are, that's what we're contemplating doing."



Council Member S. Davis: "So, we already have a stormwater ordinance separate and apart from utility or we merged the two? What is that?"

Mr. Frank Carson: "You have a stormwater ordinance that we passed three years ago."

Council Member S. Davis: "For the whole County?"

Mr. Frank Carson: "It mostly addressed, the primary focus is the regulated area because it was in response to the original permit which defined the regulated areas."

Council Member S. Davis: "It only dealt with the regulated areas at that time?"

Mr. Frank Carson: "Right, so what's going to happen here is, if the utility is applied countywide then there would be amendments to the other and under the permit we have to amend our ordinances. It would expand that so that the boundaries coincide."

Council Member S. Davis: "So has the regulated area expanded for Berkeley County?"

Mr. Frank Carson: "You... in the original Stormwater Ordinance adopted a regulated area that matches the Transportation Impact Fees, Zone 1. What we're going to tell you later, applies there're responsibilities under the permit that expand our area of responsibility and they have to do with the match you see under Mr. Call's papers with TMDL. Let's skip to that. How's that?"

Council Member S. Davis: "Ok."

Mr. Frank Carson: "Because we've talked about applying the ordinance countywide and I'll let Joe and Clint talk about the responsibilities although the regulated area in by definition, refers to urbanized areas. It goes beyond that, the responsibilities that have to do with TMDL, which are Total Maximum Daily Loads; those allocations are by watershed basis and not by population."

Council Member S. Davis: "Why you're leading into that, address an aspect the seniors suggest is that we really don't have to be concerned about, about 25% of compliance. Unless I'm reading wrong, this plan must seek to measure the pollutant level discharge from the SMS flow outwards to subject TMDL, which you just talked about, TMDL, right? A big area. Keep in mind that the SMS form may have several TMDL intersecting urbanized areas and vice versa. Within 18 months of effective permit date, monitoring should be initiated according to 25% of the MS4 area land use, TMDL water shared, or a combination of these factors."

Mr. Frank Carson: "What are you reading?"

Council Member S. Davis: "This little cheat sheet from DHEC."

Mr. Frank Carson: "Well let us talk about the TMDL responsibilities and the boundaries. We need to..."

Council Member S. Davis: "My question is, do y'all do the 100% of the bond to realize in some aspect that you can only do like 25, like a sample, or 30% which will suffice to see whether we are effectively doing what y'all are supposed to be doing with this utility before you..."

Mr. Clint Busby: "What that's referring to in the permit, and that's just some guidance giving to us as you can see from the map, as we were talking about earlier. The whole county is covered with those blue lines of receiving water bodies. In other words, if you've got impaired water bodies or you've got TMDL wasteful allocations then you have to come up with a plan to decide what you're going to monitor. What you are going to test and those are some guidance to say ok, you know, if you take 25% of those outfalls that may represent the whole structure into that receiving water body. You know, obviously you know, you've got to screen all the outfalls. You've got to decide, or we've got to decide from a County, which ones we're going to monitor. Which ones we gonna cast. Obviously, theoretically, you can go in there and test every one of them or you can get a representative sample of say 25% of them, if that gives you enough confidence to say we're meeting the water quality requirements and not contributing to that impairment or we're doing something to reduce that impairment. Then that's up to us to define. It's more or less, it's a guidance to say 25% of a watershed area...."

Council Member S. Davis: "Do that initial testing....yeah."

Mr. Clint Busby: "You going in there and do that initial testing. It's gonna give you a feeling of whether you're meeting the requirements or not. If you feel it's not, then you're going to have to test more. It's up to us to come up with that plan."

Mr. Frank Carson: "But the boundary is based on the watershed. That doesn't change the boundary. It's representative for the watershed."

Council Member S. Davis: "I understand that, but you know if you got it's just like counting heads. If you can get a good representative sample, then that should be a reduction in the cost associated. If you are re-sampling a 100% versus 25%, that's got to be a cost reduction right there."

Mr. Clint Busby: "Well, we going to talk about one of those maps showing..."

Council Member S. Davis: "I mean, because that's what the bottom line is; monies. That's what we're talking about, money to some degree. We just..."

Mr. Clint Busby: "Again, we've got all these outfalls that we've got to come up with that plan. We don't know what they're going to contain it right now. We've never tested them before."

Council Member Callanan: "Ok, so we create a representative sample of 25, using 25% and you say we feel that, that is a....that will give us an accurate assessment of what our outfalls are right? That's essentially what you're saying. It's just a representative sample?"

Mr. Clint Busby: "No, that's just a guideline. We're not saying that at all. We haven't started that sampling or testing yet. We don't know, you know again, that's just some DHEC recommendations of..."

Council Member Callanan: "But my question is, the only thing I care about, is meeting the absolute..."

Council Member S. Davis: "Minimum."

Council Member Callanan: "Bare minimum standard. I find this to be a complete waste of money Federal Mandate and so I don't want an exceptional program, I want a bare minimum program so that we meet the standards and that's all I care about. So knowing that, what does DHEC look at, so that we can determine with what we're testing is going to be satisfactory to them that we've met that bare minimum standard."

Mr. Joe Fersner: "Well, before you decide where you are going to test, you have to inventory those outfalls throughout the county and that hasn't been done yet. That's why this TMDL map shows you, all that purple area is what's considered in the TMDL and it encompasses most of Berkeley County. All that area is gonna have to have every outfall identified and that has not been done yet. The urbanized area and the permitted area are that, those outfalls have been partially identified. But outfalls are going to have to be identified in that entire area, and then you determine after you inventory the outfalls, which ones you're going to sample and which ones will have the highest priority."

Mr. Clint Busby: "Let me also point out the section of the permit says one or a combination of all these requirements is in the permit, percentage of the MS4, at least 25%, based on land use or the TMDL watershed. That's the whole TMDL watershed on that map which encompasses all of Berkeley County. The criteria, let's say we do the bare minimum and we miss an outfall. DHEC goes out there and tests an outfall and it's impaired, guess what? We're non compliant. So we've got to come up with that plan, whatever it maybe, to satisfy the permit requirements."

Council Member Call: "How do you define an outfall?"

Mr. Clint Busby: "How do we define an outfall? You know that was a four year long discussion through the first permit cycle."

Council Member Call: "I don't want to hear 4 long, 4 year..."

Mr. Clint Busby: "By DHEC's original conversation, a discharge, a condescend discharge from your air conditioned line is considered an outfall if it gets into receiving water

bodies. That's ridiculous. So what we've done is typically twelve inch size pipes or ditch of a certain size. But swells, ditches, pipe outfalls, anything that discharges or concentrated runoff into receiving water body is considered an outfall."

Council Member S. Davis: "How y'all going, utility going to work in compliance or in conjunction with Water and Bridges who go out there and dig these darn ditches, y'all got an apparatus included that while they're digging these ditches, they going to help you with your sample or something?"

Mr. Frank Carson: "No, they're two different things."

Council Member S. Davis: "Well it's all Berkeley County though..."

Mr. Frank Carson: "Yes sir, but..."

Council Member S. Davis: "And they're in the ditch so they can take a sample while they're in the ditch apparently."

Mr. Frank Carson: "But they're ways of taking of samples and there are ways of digging ditches and they're not the same thing so you..."

Council Member S. Davis: "I'm talking about discharge though, that he was describe, if you look at an air conditioning unit, my God, I...y'all took four years to decide whether you're going to combine a 12" pipe and do this, (Inaudible) discussion about air condition unit. That seems overly broad in reference to what y'all can and cannot do."

Chairman D. Davis: "I think what you're saying about the air condition....That's how extreme it's gotten at one point by DHEC, that they were talking about, that we we're going to have to...."

Council Member S. Davis: "I think 12" pipe is extreme. I don't think a ditch that I just described is extreme. It was a deep ditch that carried away..."

Council Member Farley: "Runoff."

Council Member S. Davis: "Runoff water. I mean that's not extreme."

Council Member Call: "Is that every retention pond outfall and things like that...(inaudible)?"

Mr. Joe Fersner: "Yes, everything that discharges into what's a water of the state. And a water of the state is pretty much everything under DHEC's definition."

(Several talking at once)

Council Member Call: "That'll never discharge though."

Mr. Joe Fersner: "What's that?"

Council Member Call: "I've got some ponds that never discharge."

Mr. Clint Busby: "Well there's still some, there may be some retention ponds out there obviously, depending on soil conditions. You know, they can either fill up until they over flow and then they would discharge or they could be a true detention or retention pond that allows infiltration into the ground water and that's another permit requirement that we have to address that is (Inaudible)."

Council Member Call: "So you would have to test what was going into the pond as well as what was coming out of it. Is that what you're saying?"

Mr. Clint Busby: "Well, we have to come up with a good house-keeping component of addressing the maintenance, what's going into the pond and what's all in the outfall. The outfall is what's leaving that pond say from a subdivision into that wetlands, or into that river, or into that stream, or into that blue line water body."

Chairman D. Davis: "Dennis I think has..."

Council Member D. Fish: "My question is, what do you do with all this information? After you take it there, what are you going to do with it? We identified this water, 2" water going downstream, so what. Are we going to follow up with a list of people who violate that? And like the rain (Inaudible) are you going to penalize (Inaudible) for causing the river overflow? What are you going to do with the information?"

Mr. Clint Busby: "Well, once we collect the information and if we make that determination that we are contributing to that impairment or to that TMDL then we're bound by this permit to address it. Now, you can address it by if it's illicit discharge; we're required to go out, to do the screening to determine if there is illicit discharge. If there's illicit discharges' leaving that outfall into that receiving water body then we have to track back up stream to find out where that illicit discharge is coming from. If it's being caused by an individual then yes, we have to impose penalties and fines on it. If we can't find a source then we're going to have to come up with capital improvement projects to address that before that discharge gets into that receiving water body."

Council Member D. Fish: "Are y'all making the assumption that all this stormwater is caused by people. We've had these water flows for years, down particular ditches and (Inaudible) who's causing it? I don't understand, I know what you're looking at, but how do you solve it, and what are you going to do with data when you get it? I mean, water's been flowing down these rivers for centuries."

Chairman D. Davis: "Dennis, this is not about volume of water. This is about the stuff that's in the water. And when they are talking about illicit discharge, an illicit discharge could be that much water going into a receiving stream or it could be a 12" pipe that is carrying polluted water so, this is not about volume."

Council Member D. Fish: "Ok, I understand that. My concern is because we are assessing fees, based on the amount of asphalt you got or roof you got, let's make an assumption because you've got a house you're guilty."

Council Member S. Davis: "Who's going to put a fee on the animals? You're talking about animal waste on there too."

Mr. Frank Carson: "Well, again it's not; it's a way of distributing the fee and the population. It's not saying you individually because you have a roof. But, because you have a roof, you generate more runoff. The more roof you have, it's a relative thing. It's not because you have it, because you have to have roofs. We have to have roads. We have to have impervious surfaces. It's just a way to allocate the cost among the population."

Council Member Callanan: "The...the purple area includes Goose Creek and all that. Do we have to do all of their outflows too? Because their outflows lead to our outflows. You see what I'm trying to get there is, is if we're constantly going up stream to figure out where the whatever, the illicit discharge is, how does that operate?"

Mr. Clint Busby: "Well if it involves another MS4 such as Goose Creek or Hanahan, then we're bound to share that information and coordinate with that adjacent MS4. Now, would we track it to the limits of the County once it gets out of the jurisdiction of the County, say into another municipality; if we find that there is a discharge coming from them, then we're obligated to notify them and they can do their own tracking..."

Council Member Callanan: "And if they haven't implemented the standards to the point where we have, it really, it just becomes a: *Hey DHEC we've done our point and here's our test results. It's their problem and they haven't implemented the program. They're not with the program.*"

Mr. Clint Busby: "And if they're a regulated MS4 such as us, then yes, we also have to notify DHEC if we find so that would...DHEC would notice it and say Goose Creek or Hanahan. Now, the issue comes in when you're dealing with the non regulated entities, St. Stephen, Bonneau."

Council Member S. Davis: "Yeah, thank you."

Council Member Callanan: "Right, right, right."

Mr. Clint Busby: "Then we're obligated to, because they're not regulated, we can't send a letter to Bonneau and say you're violating your permit requirements. It's on us."

Council Member S. Davis: "But you should..."

Council Member Call: "If their water's coming into our system."

Council Member S. Davis: "Because you got two things going. You talk about SMS4 which is the more limited area. But at the same time you're trying to impress us, not really impress, but you're trying to reflect the TMDL which is a broader area. True?"

Mr. Clint Busby: "That's true."

Council Member S. Davis: "Yeah, so in one instance you're telling us how you really got to be concerned about the TMDL. We got to be concerned about that. But, in essence, you don't have no control primarily over but the SMS4 area which must be regulated. But, wait a minute, and then you got a smaller area like St Stephen who may have discharge coming from their system or small area like Jamestown, or a small area like the town of Bonneau. You can't do nothing about it."

Council Member Call: "Or Moncks Corner too."

Mr. Clint Busby: "What we can control is the unincorporated area of the County. Now, yes, (Inaudible)."

Council Member S. Davis: (Inaudible)...unincorporated."

Mr. Clint Busby: "If it's a connectivity between St Stephen, which is an unregulated entity and Berkeley County. You know legally, that's as far as we can go is within the limits of what we have available in the jurisdictions that (Inaudible)."

Council Member S. Davis: "But your drain ditches don't stop in Bonneau and then reconnect in Forty-One, and stop in St Stephen and reconnect and go into the water. It's one continuous process throughout."

Mr. Clint Busby: "Well, what we would have to do, if it is draining from Bonneau into Berkeley County, we have to assess our outfall. We entered as our receiving water, Berkeley County. If we determine there's an impairment, then we have to track that impairment back up stream. We go up to the limits of the municipal jurisdiction. We have to another, we have to do another test there and say this is what we're contributing, what we've tested at the bounds of the...bounds between St Stephen and Berkeley County. We can't do anything further up there."

Council Member S. Davis: "You defeat the whole purpose."

Mr. Clint Busby: "Don't argue that to me. Argue that to DHEC. They're the ones that placed the requirements."

Mr. Frank Carson: "But that's one area. That's one area. So we can't do anything..."

Council Member S. Davis: "But it's a significant area because you're still talking about the TDML. The main point you keep stressing to me, the great watershed area, that you can't really control anyway because there are areas in that TDML area that you don't have no control over."

Mr. Clint Busby: "We can't..."

Council Member S. Davis: "And on top of that, they made exceptions for farmland. All the fertilizing and all that stuff; all that stuff you can't do nothing about that and you know that happens."

Mr. Clint Busby: "Well, we're bound and we're obligated under our permit to identify the area that we're contributing, Berkeley County, into that TMDL. If St Stephen is contributing..."

Council Member S. Davis: (Inaudible)

Mr. Clint Busby: "Or Bonneau is contributing, we can't do anything about that. But, we can do what we can do with what we're contributing, within the unincorporated area."

Council Member S. Davis: "Who is Berkeley County?"

Mr. Frank Carson: "We are Berkeley County. All of us that are Berkeley County."

Council Member S. Davis: "Town of Bonneau is Berkeley County too. St Stephen is Berkeley County."

Mr. Frank Carson: "Well that's, you're arguing a legal point."

Council Member S. Davis: "No, no, it's not no legal point..."

Mr. Frank Carson: (Inaudible)

Council Member S. Davis: "Because of what you know, it would be with you. You say you got your lawyer here, so it ain't no legal point. You told me you brought your lawyer, it ain't no legal point. Your lawyer's here. I ain't talking no legal, I'm just talking common sense approach. You're telling me we're Berkeley County. He's telling us we got this big broad area called a TMDL that we got to be concerned about. But at the same time, if something is coming out of these municipalities that are not regulated ya'll can't do nothing about it."

Mr. Clint Busby: "We..."

Chairman D. Davis: "But we're gonna have to do something about it but we may not have control to do something. It still may be our responsibility, but by testing we'll be able to



determine where it comes from and then we'll have to make a case to DHEC, I'm assuming to force them to do something about it."

Council Member Call: "The simplest..."

Council Member S. Davis: "The law don't provide that you make an assumption. The law don't provide nothing for you to do anything with them right now. Not a thing."

Chairman D. Davis: "Right, you're right."

Mr. Clint Busby: "What's written...."

Council Member S. Davis: "I don't want to go on no assumption."

Mr. Clint Busby: "What's written throughout this permit is in terms of what we cause or contribute. When it says we, that's Berkeley County."

Council Member S. Davis: "That's not Berkeley County."

Mr. Clint Busby: "Well that's what the permit requires."

Council Member S. Davis: "That's not Berkeley County."

Mr. Clint Busby: "We don't have any jurisdictional authority over St Stephen, Bonneau. But what we're causing or contributing to it within what we do have authority to regulate, the unincorporated area. We have to satisfy this permit requirement."

Mr. Joe Fersner: "Mr. Davis, what you could do is exactly what you started with. Be like Lexington County and adopt the ordinance, the Stormwater Ordinance."

Council Member S. Davis: "I don't want to be like Lexington County, I live in Berkeley County."

Mr. Joe Fersner: "Well, that's what they did, they recognized that in order to be able to implement the program and address the pollution that was getting into Lexington County stormwater systems. They had to have all municipalities under their stormwater program. That's what they did."

Council Member S. Davis: "That's what they...ok."

Mr. Joe Fersner: "That's why Lexington County has a countywide ordinance."

Council Member S. Davis: "But the lawyer just said we can't do that."

Mr. Joe Fersner: "Not the fee, the ordinance that regulates stormwater within Berkeley County."

Council Member S. Davis: "But if you get an ordinance then everybody is equally being affected."

Mr. Frank Carson: "And the other point about the farmers and the silver culture, they're not exempt from the stormwater regulations, but State Legislature said that you can't impose a fee on them."

Council Member S. Davis: "Well, that's about the same thing..(Inaudible)."

Mr. Frank Carson: "No, it's not the same thing."

Council Member Callanan: "But you can penalize them."

Mr. Frank Carson: "You can penalize them if they're out. If they dump pesticides and it runs off into the stream and you find that's the source. They're subject to the same penalties as everybody else under the stormwater ordinance, but you can't charge them a fee to pay for the program."

Council Member S. Davis: "They're not part of the solution, but they'll come in and play...(inaudible) as you think I am you know, I'm pretty..."

Council Member Callanan: "Ok. So we go through this exercise and it just seems insanely laborious of finding every single outflow in the County. It's all front loaded work, correct? And so, once we do that which sounds extremely expensive and like I said extremely laborious, what is our then, annual obligation after that? Is it just testing a representative sample?"

Mr. Clint Busby: "No. Once we identify and screen all the outfalls, and we map them, then the only new outfalls that we have to map is any new outfalls that come online. New subdivisions, new developments; but, as far as those existing outfalls that's already existing plus the new ones. The permit says that we have to go back and assess them, every one of them at least once every permit cycle, every five years. So, you got 5,000, 3,000, 4,000 outfalls throughout the county, by the time you get through doing that screening of all 4,000 of them you're back to doing it again. So it's a continuous screening, monitoring, testing. But as far as the initial mapping, that's just an upfront cost."

Council Member S. Davis: (Inaudible)

Council Member Callanan: "Ok, let me just... So the initial mapping is an upfront cost but that's not repeated five years later is it?"

Mr. Clint Busby: "No, not the mapping."

Council Member Callanan: "Ok, so then what is our annual fee? What is our annual obligation once that's in place? Is it simply just going and doing representative tests of the outfalls?"

Mr. Clint Busby: "We have to screen every outfall."

Council Member Callanan: "I thought you said we only have to do a representative test though."

Mr. Clint Busby: "You're talking about TMDL versus illicit discharge, versus impaired water bodies. There's all kind of requirements depending on what the condition is."

Council Member Callanan: "I'm so lucky this is a single story building. I'm about to jump out of a window. This is insane."

Mr. Clint Busby: "The reference about the 25% of the represented areas in Bonneau, the TMDL."

Council Member Callanan: "Ok."

Mr. Clint Busby: "Impaired water bodies are illicit discharge. When we go out to every one of those outfalls, we have to physically go out to that outfall. We have to map it. We have to look at it. We have to make a determination of whether there is an illicit discharge mixed in with that storm water. Or, if there is any other pollutants, of concern mixed in with that storm water."

Council Member Callanan: "And you can only do that when there's storm water, right?"

Mr. Clint Busby: "Well you do it for dry weather flows and you can do it for wet weather flows."

Council Member Callanan: "Ok."

Mr. Clint Busby: "Some illicit discharges are associated with dry weather flows. Impairments like fecal are carried out when it rains. So you got different conditions that you have to apply but you got both conditions that you have to meet for each outfall. You have to assess it for illicit discharge and if it's discharging into an impaired water body, which we'll get to shortly. Then you have to assess it for the pollutant of concern in that impairment. So, you have to do the screening, make a determination by looking at that water, whether you think that it's contributing to the impairment or carrying an illicit discharge."

Council Member Callanan: "But all that's based on having an impairment first, right?"

Mr. Clint Busby: "Yes."

Council Member Callanan: "So..."

County Attorney Nicole Ewing: "There are 20 impaired bodies in Berkeley County."

Mr. Clint Busby: "We'll get to... We've got 20 impaired water bodies,"

Chairman D. Davis: "We'll talk about...It might make it clear...."

Council Member Callanan: "Alright, alright."

Mr. Clint Busby: "those are major, Cooper River...."

Council Member S. Davis: "Yeah, but those are in the urbanized area."

Mr. Clint Busby: "It doesn't matter. We're contributing to that impairment in the Cooper River."

Council Member S. Davis: "Yeah, I understand that, but it does matter to me because you wanna talk about T..."

County Attorney Nicole Ewing: "TMDL."

Council Member S. Davis: "I don't know where they come up with these letters."

Mr. Clint Busby: "TMDL means Total Maximum Daily Load."

Council Member S. Davis: "Yeah that's right. But that's a broad area that incorporates unincorporated area versus the SMP4 area where the Hanahan and all these other areas are urbanized. Do you agree?"

Mr. Frank Carson: "Mr. Davis, the impaired water, can you go back to that one, Sonja? The impaired water bodies first of all, is not just the urbanized area. It's Cypress Swamp, which is... Yes, back up."

Council Member S. Davis: "Who's going to do the testing of the water?"

Mr. Clint Busby: "Here's a TMDL, that document; that TMDL document is about 150 pages and that is for the South Santee Coastal watershed. That's up along the Williamsburg, Berkeley County line. It goes from Berkeley County into Charleston County and then flows into those three. You can't see it on the map but .....(Inaudible)"

Council Member S. Davis: "I got no problem with that."

Mr. Clint Busby: "Along that water body is impaired. We contribute to that impairment."

Council Member S. Davis: "We?"

Mr. Clint Busby: "We, Berkeley County."

Council Member Callanan: "You."

Mr. Clint Busby: "The unincorporated area of Berkeley County."

Council Member Callanan: "You."

Council Member S. Davis: "How would they do it?"

Mr. Clint Busby: "St. Stephen may contribute to it."

Council Member S. Davis: "I disagree."

Council Member Callanan: "Getting wound up."

County Attorney Nicole Ewing: (Inaudible)

Mr. Clint Busby: "No, they all don't contribute to ..."

Council Member Callanan: "Thank you."

Mr. Clint Busby: "To the South Santee River. So all these red dots down through here are the impairment location."

Council Member S. Davis: "What is Williamsburg County doing?"

Mr. Clint Busby: "Williamsburg County, is not a regulated entity. They don't have to do a thing."

Council Member S. Davis: "We need to move on to Williamsburg County, on our unincorporated area. Where I live is Williamsburg County."

Mr. Clint Busby: "But, Daniel Island discharges into the Cooper River which is impaired to the Wando River, which is impaired."

Council Member S. Davis: "How...What facts do you have that we are polluting?"

Mr. Clint Busby: "What facts do we have?"

Council Member S. Davis: "Yeah."

Mr. Clint Busby: "Well, there's 20 impaired water bodies that the Berkeley County..."

Council Member S. Davis: "What they going...impaired?"

Mr. Clint Busby: "Testing by DHEC. DHEC tests the rivers, the streams..."

Council Member S. Davis: "Yeah, but what's in it? What's in it?"

Mr. Clint Busby: "They come up with a 303D list and like this map. These green dots represent our outfalls. The blue lines represent the receiving water bodies. In our...in the yellow area, outlines our regulated area, we've identified over nine, approximately nine hundred outfalls just in this regulated area."

Council Member S. Davis: "I know, but what's in it?"

Mr. Clint Busby: "What's in it?"

Mr. Frank Carson: "It's dissolved that the impaired, it's usually dissolved oxygen deficiency or fecal coliform. So those are the typical."

Council Member S. Davis: "Who contributed to that...sewer waste, animal waste, what?"

Mr. Clint Busby: "That's what you have to find out."

Mr. Frank Carson: "That's what you have to find out."

(Several talking at once)

Chairman D. Davis: "Can I say something before you...You know, the best example, the best way to look at this I think is to kind of look at it the way we also look at our sewer system and our sewer discharges in the area. DHEC has gone out and they have spent. They did a 3D model on the Cooper River discharge. It cost, I don't know, hundreds of thousands of dollars to find out what's in the Cooper River. What the total amount of the bad stuff in the river. And then they have come back to all the discharges in the Charleston Area and we are waiting on that now and we're gonna find out. Because they're going to clean up the Cooper River and we are going to find out what amount of stuff we can discharge into the river so that with ours and North Charleston and everybody else that when all that comes together it will start cleaning up the Cooper River. So, and that's what this is about. They are going to establish a base line. They've figured out what the contaminants of the Cooper River are. They know what's coming from storm water discharge and so, they are going to make sure that we're not dumping more than our fair share. Now, that's kind of a real simple model but they're going to make sure that we don't contribute more than our fair share so that's why this gets to be a little bit difficult with the municipalities; are not ones that are regulated because when that water dumps into the Cooper River, you know they're going to monitor it right there. They don't care whether it came from St Stephen or Bonneau or whatever. It's going to Berkeley County's responsibility to make sure that gets cleaned up. Something has to happen to get that down to the level it allows."

Council Member S. Davis: "So, the Town of Moncks Corner will have no cost outlays right now if they're contributing and making our numbers go up."

Chairman D. Davis: "Well, yes, that's right. If that water turns around and goes out in the County, then that's going to be basically graded against us."

Council Member S. Davis: "That's right."

Mr. Frank Carson: "Let me just point out, this a map that shows the impaired. These are the stations, and I just... going back to where it comes from. This is Wassamasaw Swamp at 176, which is one of the stations with impaired water bodies. This is across from Short Stay in Lake Moultrie. Wadboo Creek off 402. Those aren't....you know, that water comes from Macedonia into Wadboo Creek. You know out in Wassamasaw Swamp that's Cross and Longridge and all of those area in the Wassamasaw Swamp and Cypress Swamp. So, there are other places. You see a lot of points, but if you look at them I guess it's convenient to put those sampling stations at a bridge so there are more bridges, and roads, and things, on the reservoir and Turkey Creek, Foster Creek, and the Cooper River. So, and it goes back to the old thing of we're all downstream. We're all downstream of somebody and we're all upstream of somebody."

Mr. Clint Busby: "And that's a valid point. That red dot below I-26 off of Cypress Swamp, that monitoring station is actually in Dorchester County off Highway 78, but obviously, you can see the Cypress Swamp, the Wassamasaw Swamp all the way up into Cross. All that's being contributed to by Berkeley County, so where that political boundary between Berkeley County and Dorchester County, we have to assess at that point; what portion or what percentage of that pollutant that we're contributing to. Whatever we determine, whatever we're contributing, we have to address it."

Council Member S. Davis: "Let's take this for instance, say Florence County. Florence County was only required to comply with permit requirement within the urbanized area outside of the unincorporated areas."

Council Member Farley: "Incorporated not unincorporated."

Council Member S. Davis: "Yeah, I mean, I'm sorry. Incorporated areas and what they did in Sumter is they made a stormwater ordinance that's adopted countywide outside of the incorporated limits."

Mr. Frank Carson: "That's under the old permit, Mr. Davis. That's not the new permit."

Council Member S. Davis: "So, what would Florence do in the new...they continue to operate under the old permit?"

Mr. Frank Carson: "They're probably having a meeting, no sir. They're not out there doing the same thing we are, because we're all in the same boat. They're probably sitting around a table up in Florence tonight if there's any justice."

Council Member S. Davis: "Justice."

Council Member Call: "Who in the world come up with this?"

Chairman D. Davis: "We have some sage legal advice. I wanna talk..."

Attorney Mary Shahid, Nexsen Pruet: "Just a little bit of background that maybe you'll let go of trying to make it make sense. In the late 80's EPA did a study. They cleaned up all of the point source discharges which is like your sewer outfalls. They required NPDES permits for all industrial discharges, point source discharges, in an effort to clean up the nation's water. Everybody that had direct discharge had a permit with stringent requirements on it. But water was getting worse. Water quality was getting worse, not better. So, they did a study in the 80's and the culprit is urban development. So, we talk about different things, illicit discharge, fertilizer, etcetera. The culprit, the water quality is urban development. So then, EPA amended the Clean Water Act to capture these kind of storm water discharges under a permit. Then, they required the states to do something about it. The states said we can't control what happens on a local level and we don't have the money and they went to the Legislature in 2000-2001. And the Legislature adopted regulations that passed an unfunded mandate down to all local governments."

Chairman D. Davis: "Regulated."

Attorney Mary Shahid: "All regulate anybody that's in SMS4, right. The goal here is ultimately for you to transfer this information to your planning and development section arm of local government so that you control growth in the areas where growth is harmful or negatively affecting water quality. So that's what they're driving. They're trying, and the only way they know how to get there is making it burdensome enough for you that you will then take action from a planning perspective. Putting enough liability and enough responsibility on you that then you have to act by, you know I don't... extracting things from developers, or changing density, etcetera. So, if that....it doesn't make sense."

Council Member S. Davis: "You make a lot of sense."

Attorney Mary Shahid: "Well no but, and I'm going to show you something. This is the permit that you've been complying with since 2006. It's 41 pages. This is the permit you're about to have to comply with. It's over 100 pages. That TMDL stuff we were just talking about, that's 7 pages of single spaced permit conditions. Seven full pages devoted to that."

Mr. Frank Carson: "That wasn't in the original."



Attorney Mary Shahid: "That was not in this fun little 41 page deal. But, the point is, I know it doesn't make sense and you don't understand what you're...or why you're doing what you're doing because it may never work; because everything else around you is still not being controlled by all of this. But, the goal is that it becomes, you collect enough information, or there's enough liability, or it becomes expensive enough or whatever that you transfer all that to your planning staff and then you begin some growth limits. If your community that believes that growth is vital and good for the community and you don't want to limit growth then you'll find other solutions. But that's where they're going with it and it is an unfunded mandate and it does not all make sense and it never will."

Council Member Callanan: "Ok, and I just want to make sure, because there's the argument that I hear during the comprehensive planning process, that we do want cluster development. But now I'm hearing that actually is on the EPA's point of view, or DHEC's point of view, that's not what you want."

Attorney Mary Shahid: "Well I don't know, sometimes clustered is not..."

Council Member Callanan: "Because I hear urban. I hear urban and I think clustered."

Attorney Mary Shahid: "Clustered may protect water quality. I mean, those are planning decisions. You cluster then you have a lot of buffer areas that aren't developed may have a beneficial effect on water quality."

Chairman D. Davis: "There's the sewer system....See no, actually that's true because if you cluster everybody, if you have higher density. The runoff is all collected and then you can get it to one point where it can be dealt with. It can be treated."

Council Member Callanan: "Right, right, right."

Chairman D. Davis: "And so, actually that is something that they're looking at. Why don't we...."

Council Member Callanan: "But then we have to treat it...you have to...which is..."

Chairman D. Davis: "If you heard Clint in the beginning say that some of those dollars can be used for capital improvements to, you know, to deal with it. That may, that's up to and including, it could be a water treatment facility."

Council Member Callanan: "Water treatment plant runoff."

Chairman D. Davis: "Right."

Council Member Callanan: "That's great."

Council Member Call: "I knew that's where it was..."

Mr. Clint Busby: "Well, and again, that's been done; I think done in Beaufort County, where they have like a regional big detention pond with some type of treatment process for the outfall to address."

(Inaudible)

Council Member S. Davis: "You've answered my question though. It just seems to me that the folks out in the unincorporated area are being pressured and this instance to be the funding source for utility, something they didn't create, something they don't have. They haven't been active pollutant in it, but yet they're being called upon to assess and carry the burden financially for this utility to be up and running and I sorta totally still, fundamentally unfair."

Mr. Clint Busby: "Well, I would also point out what Mary was saying about the development. There's a lot of impaired water bodies in the rural areas of the County. Most of those impairments are for either dissolved oxygen or fecal. And as we were talking about earlier, it was caused by septic systems, it's not..."

Council Member S. Davis: "Well that's DHEC, I own some rentals and a lot of time I have to put a septic tank, you'd be amazed at what you have to do. It is a tremendous cost and they're just restricted the uses of land, uses in the rural area. You got take half the acre just to run you're sewer line."

Mr. Clint Busby: "But the impairments are still in those rural areas as well and we're obligated to address them."

Council Member Call: "Let me ask you, I'm sorry."

Council Member S. Davis: "Go ahead."

Council Member Call: "I see a lot of red dots in this area behind my, where I live over there in the Goose Creek Reservoir and what we've been told by the wildlife people is it's a dissolved oxygen deficiency caused by the vegetation in that. Does that mean that we would have to go in there and take out the vegetation to solve that problem?"

Mr. Clint Busby: "Well the Goose...the reservoir itself is a receiving water body. There's an impairment there. We're obligated to look at where our outfalls discharge into that receiving water body and make a determination whether we're contributing to that impairment. In the water body itself, you know, some of that impairment is being caused by vegetation in the water body. DHEC has responsibility and authority over the water body itself. That's the receiving water body. All we have to do is look at where our outfalls enters that receiving water body and make a determination as to whether we're contributing to that dissolved oxygen impairment."

Council Member Call: "So..."

Mr. Clint Busby: "And if we are, then we have to address it."

Council Member Call: "We would have to go in there, say if it were the vegetation. We would have to go..."

Mr. Frank Carson: "No sir, he's saying..."

Chairman D. Davis: "He's saying, where our pipe goes in there, if it has less dissolved, more dissolved, less dissolved oxygen then the reservoir then we're going to have to..."

Council Member Call: "No..."

Chairman D. Davis: "Get more oxygen in it where we're making it worse."

Mr. Clint Busby: "Right, from a global standpoint whether you're talking about municipalities interacting with counties versus receiving water body itself. Again, all we can do under our permit is address what we have jurisdiction or authority over and control over which is the MS4 system or the outfalls from our system."

(Several talking at once)

Mr. Clint Busby: "This coming from other municipalities or other regulated entities or directly from the receiving water bodies itself or from a pool plant or from a industrial plant."

Council Member Call: "So, if we fix what we're putting into that reservoir, who fixes what's broke in that after we fix what we're putting in there."

Mr. Clint Busby: "Well DHEC is obligated to satisfy the Clean Water Act as well. (Inaudible)...their own funds."

Council Member Call: "Who funds it?"

Mr. Clint Busby: "They're short on funds."

Council Member Call: "Huh?"

Mr. Clint Busby: "DHEC."

Council Member Call: "DHEC's gonna fund it?"

Mr. Clint Busby: "Well, they don't have programs that's administered through the state and you know, I'm not familiar with all of them."

Mr. Frank Carson: "Mr. Call, I have a different answer. Maybe nobody does. Maybe nobody does because that's the disconnect. What we have to do is meet our requirements under

where we're regulated. I'm not sure what the answer is as to who is going to do that. I'm not sure who's gonna remove the vegetation. Ask..."

Council Member Call: "Well I can tell you. I can tell you, Frank. I can give you an idea. My lot is about a hundred feet wide and it was about 200 feet out there to the clear water and that little 100 by 200 cost \$10,000 to clean out, just behind my house; me \$10,000. So, if you gotta take that much stuff out of there as much stuff as there is in there, you're talking about a huge expense. And if it comes to the County, it's going to be, it's just going to be awful."

Chairman D. Davis: "But also, you've got the background that you know, when DHEC is going to...DHEC is going to determine what the natural state of dissolved oxygen and all that stuff in the Goose Creek Reservoir and that's called background. What we're not going to be allowed to do is put water in there that's gonna make the situation worse."

Council Member Call: "Contributes to it, right."

Mr. Clint Busby: "Causing or contributing. That's the two key words..."

Council Member Call: "I understand that. I'm just trying to figure out if somebody's going to make that water in there meet the dissolved oxygen standards, who's responsibility is it gonna be or is it just gonna stay like it is?"

Mr. Frank Carson: "I don't know that we can answer that question. I don't know. What we're required is to not contribute to the problem."

Council Member Call: "Problem."

Mr. Frank Carson: "Right."

Chairman D. Davis: "The Goose Creek Reservoir for years is some of the best fishing in the world in there. So, it in its normal state it is fine. But the folks that are making it worse are the ones, whenever there is a fish kill and I remember a few over the years, that where the oxygen level got entirely too low and there were fish kills."

Council Member Call: "You know, I'm really suspicious of this because I live on there and the DO has been, has come up considerably up to normal standards and here we are with all those red dots in there, I'm a little bit shocked to see them. I don't know where this status comes from."

Mr. Clint Busby: "Those are minor drain stations and DHEC do testing during the year to determine water quality and pollutant."

Council Member Call: "And this is from actual tests, these red dots?"

Mr. Clint Busby: "They monitor and test the receiving waters, yes."

Chairman D. Davis: "Phillip, did you have a question? Oh, ok. I thought I saw a hand..."

Council Member Fish: (Inaudible)...What is the minimum amount of money and what is the amount required for fiscal year, this year, to get by? We've got \$318,000 that we need to budget. What's the minimum required this year to keep us in compliance so we can say, we're applying for the permit, the permit...what's the minimum? What's the cost roughly?"

Mr. Frank Carson: "Well, first of all, we don't have a permit yet. So, when we did our budget request, part of that. And we've shown the figures to be, when the program is up and running, \$1.4 million dollars a year. If you look at some of that rolling budget by the time we get into when is the permit gonna be issued and is there some things that we might fund another way through; either we're not charging everything, we're doing some of the other work outside of that department. We've talked about the aerial photography that's gonna have to be done. If some of that's shared then we think that some of that can get us through this year."

Council Member Fish: "So you're thinking, in order to get the permit we have to spend \$1.4 million or we get the permit...what's required?"

Mr. Frank Carson: "When the program is up and running, that's the annual cost in the first three years of the permit cycle."

Council Member Fish: "What's the minimum cost to get the permit? Minimum cost to get the permit?"

Council Member S. Davis: "And why is the \$1.4 not being divided or spread over 3 or 4 years then?"

Mr. Frank Carson: "Because \$1.4 the next year. So \$1.4 a year..."

Council Member S. Davis: "I know, so you're talking about..."

Council Member Callanan: "How many..."

Mr. Frank Carson: "You're looking at the first three years of the permit cycle."

Council Member Callanan: "Aren't those the upfront costs that we're talking about?"

Mr. Frank Carson: "Good many of them are, yes."

Chairman D. Davis: "There are some."

Council Member Callanan: "Because, I mean, one of the things I would like to do...I mean I'd like to be able to give folks an idea here that this is not, this doesn't have to be this amount of money a year. So, if we can somehow tell people, and I don't know, can we somehow spread the upfront cost beyond the, those first few years? You know, because I don't, I mean if

it's an issue of, it's going to be \$1.4 million a year for the first three years, then it's only going to be \$800,000 a year after that. You know, I mean, if we could level that out, that would be an interesting idea. I just don't, I mean, I don't even know. I just don't know what our expenditures beyond the third year? So, I can't give that answer to people."

Mr. Joe Fersner: "Well, they don't know either because the permit conditions are not finalized yet. It's a moving target. But the minimum, I think you said earlier, you wanted to try and get the minimum. The way we calculated it, we feel like the minimum that the new permit is gonna have is at \$1.4 million dollars."

Council Member S. Davis: "Ok."

Council Member Callanan: "For three years."

Mr. Joe Fersner: "For the first year..."

Council Member S. Davis: "Each year."

Mr. Joe Fersner: "That you're gonna have to implement it."

Council Member S. Davis: "Ok now..."

Mr. Joe Fersner: "Per year."

Council Member S. Davis: "Can you, can y'all get a projected cost or itemization of this \$1.4 million dollars?"

Mr. Clint Busby: "Yes, it's in the..."

Mr. Frank Carson: "We've given you that in the handout from..."

Council Member S. Davis: "Now, where y'all derived these numbers from, estimation numbers?"

Mr. Clint Busby: "Second Committee Meeting."

Mr. Frank Carson: "Second Committee Meeting."

Council Member S. Davis: "Y'all Committee Meeting?"

Mr. Frank Carson: "This, what you see on the screen are those, and you have that in your handout as to what we gave you at that..."

Council Member S. Davis: "I know these are numbers. Ok."

Council Member Fish: "But, where'd we get them?"

Mr. Frank Carson: "What are we missing?"

Council Member Callanan: "But I'm just saying, how did we...are we estimating these?"

Council Member S. Davis: "Yeah, I mean, you ain't did this before so how you know..."

Mr. Frank Carson: "Of course we're estimating."

Council Member S. Davis: "Yeah."

Council Member Callanan: "Right, so..."

Mr. Frank Carson: "Nobody's ever done this permit. The permit hasn't been written. We're talking about the draft. The draft that DHEC has given us. That draft is still in the works, but it's gonna come before the end of the fiscal year."

Council Member Callanan: "Right."

Mr. Clint Busby: "And how difficult this is to assess. We go to each one of those outfalls, we screen it, we test it. This outfall doesn't contribute to the impairment. That's the end of it. We don't have to go back until another 5 years to test it again. You go to another outfall right down the road and it is contributing. Now, that maybe a ditch that runs three miles and it's got all kind of subdivisions, everything else draining into it. Well, we do the testing and we're contributing and there's an illicit discharge. Now, we have to go back up to all these subdivisions, all these developments, whatever's discharging into that outfall and see if we can find that impairment. I mean, that can be huge."

(Several talking at once)

Council Member S. Davis: "All those man hours going back and ....to the source."

Mr. Frank Carson: "That's the only way you can do it."

Mr. Clint Busby: "Only way you can do it."

Council Member S. Davis: "Can't find, what you gonna do then?"

(Several talking at once)

Council Member S. Davis: "I mean, you go up to the Town of Bonneau and you find the discharge go in the water, what we gonna do then?"

Chairman D. Davis: "As I said before, you're either gonna have to try to eliminate it or you may have to fix it. That's and..."

Council Member S. Davis: "So, we'll fix it too?"

Chairman D. Davis: "No, treat it. I mean, we've talked about the worse case scenario is we build a water treatment plant and we treat it. Now we're not going to have those situations in Berkeley County."

Council Member S. Davis: "We just do that in kind for the citizens."

Chairman D. Davis: "But we've got to figure out a way because we cannot continue to contribute to the..."

Council Member S. Davis: "So, if we fix it then, no cost assessment for them, for fixing their problem for them?"

Mr. Frank Carson: "Maybe we're talking about, we're speculating now, we're not even...we're up to speculating because we may go to them and they may not know about it and they may fix it. We may turn it over to DHEC for an enforcement action under some other regulation and they get it fixed. But, we've done all we can do. We've done what was required of us. We've done all that we possibly can."

Council Member S. Davis: "And you take \$1.4 million dollars for y'all to do this every year is what you're telling us."

Mr. Frank Carson: "Yes sir, that's our best estimate at this point."

Council Member Callanan: "That's all...I mean, that would be all labor. I mean..."

Mr. Frank Carson: "Now that's testing and inventorying..."

Mr. Clint Busby: "We all have... a lot of that's going to be consulting activity. We don't have the staff, the internal staff to do a lot of this. We're going to have to hire consultants to do a lot of this."

Council Member Callanan: "But it's every year though, right?"

Mr. Clint Busby: "Just..."

Council Member Callanan: "I mean, is it going to be less labor every year? Is it gonna be cheaper to hire somebody to do it?"

Mr. Clint Busby: "Within that yellow bound that's on that map right there. We've identified 900 outfalls just in that one area."



Council Member Callanan: "Right."

Mr. Clint Busby: "Some of those outfalls you can drive to maybe 10 a day. Other outfalls, you may only do one a day. You may have to drop in by helicopter to get to that outfall to do that testing."

Council Member S. Davis: "(Inaudible)...said you're working on it. It seems to suggest you do 25% sample. You got to go to every outfall?"

Mr. Frank Carson: "That's for TMDL, we're back to..."

(Several talking at once)

Mr. Clint Busby: "You're mixing TMDL sampling versus screening."

Mr. Frank Carson: "It's more complicated than that."

Council Member Callanan: "Right."

Mr. Clint Busby: "Every outfall has to be screened."

Chairman D. Davis: "Let's do one question at a time. We're starting to get excited."

Council Member Fish: "How you going to spend the money if you've got one person budgeted and yet you're going to spend \$800,000 plus the \$318. How you gonna spend that?"

Mr. Frank Carson: "Contractors, consultants."

Chairman D. Davis: "Your....that's the upfront cost. It's going to be very expensive at the beginning. We're not going to need, we're not going to have people out there sampling these things until we get the inventory; get a map. But, the upfront cost of getting all this documentation is where we're gonna spend that money. Then as we get into the next year, that's when we maybe testing, screening and testing the outfalls. So it's going to be different money. Still going to be very expensive, but you're going to be spending it different things."

Council Member Fish: "On the consultants, are you going to bid out or are you just gonna go select people based on, what criteria?"

Mr. Frank Carson: "We'll do it different ways. Right now, I mean we have, Wolpert is one of our...is our Storm Water Consultant. So, they've helped us get this far. They're going to be some things that they'll be doing for us under contracts we already have. There's going to be some things, there's aerial photography for instance, that would be bid out. There may be other parts of the program that we would bid out competitively. So, it's a combination of all those things. There is no, there's nothing in the box that I can pull out and say here's what we're going to do every year for five years in the permit cycle."

Mr. Joe Fersner: "If I can throw a couple numbers out for you, Dorchester County is charging this utility fee and their fee generates about \$1.6 million. Georgetown County who is much smaller than Berkeley County is \$1.7 million. Greenville County who's been in this program since, for about 10 years, and have had to do the monitoring, the sampling, and all that spends over \$7 million dollars a year."

Council Member S. Davis: "They should, they got BMW, got everything else. Gotta pay more...."

Mr. Joe Fersner: "So, I guess.."

Council Member S. Davis: "I'm sorry."

Mr. Joe Fersner: "The \$1.4 million dollars..."

Council Member S. Davis: "You can by Michelin."

Mr. Joe Fersner: "Seems like a lot of money, but it's really not a lot when you consider all that you have to do under this permit."

Mr. Clint Busby: "And Sonia, if you'd pull up that, you know the question about you know, what are the penalties, if we don't comply with the requirements."

Council Member S. Davis: "Well, they'll put the Supervisor in jail, not us."

Mr. Clint Busby: "And they..."

Council Member S. Davis: "We worry about that, hell, ain't no big concern."

Mr. Clint Busby: "Well the County, the County would be, there's two requirements. There's a Federal requirements under the Clean Water Act and then there's the State requirement under the Pollution Control Act."

Council Member S. Davis: "We need some people to stand up."

Mr. Clint Busby: "The State penalties are \$25,000 per day for every day of noncompliance and or two years in jail. The Federal requirements are up \$27,500."

Council Member Callanan: "Are we putting Frank in jail?"

Council Member Call: "Yeah, who goes to jail?"

Council Member S. Davis: "The Supervisor."

Unknown...."Frank goes to jail."

Attorney Mary Shahid: "It's \$10,000,000 million dollars a year not to comply."

Council Member Callanan: "Ok."

Attorney Mary Shahid: "So if you want to make a comparison."

Mr. Joe Fersner: "And is that just State?"

Attorney Mary Shahid: "That's Federal. That's \$27,500 per day."

Mr. Joe Fersner: "So that's not even the State penalties..."

Council Member Callanan: "We have a program and we're working hard to comply and they go to some out, wildlife thing, and they find that it's...we're not in compliance. I mean, does the virtue of us having this program there give us some sort of, prevent us from getting slapped with a fine being that we are actually making an effort. But we cannot be 100% perfect, nobody can."

Mr. Clint Busby: "The first thing we have to do is develop a Storm Water Management Program. The first permit cycle, based on the first permit, redeveloped that."

Council Member Callanan: "Alright."

Mr. Clint Busby: "That'll define what we're going to do for the next five years; to meet this permit."

Council Member Callanan: "Right."

Mr. Clint Busby: "Now, we've got this permit to do. We've got 6 months, I believe, from the date of coverage on this permit to update this Storm Water Management Program and that's gonna define what our programs gonna be over the next 5 years. We've got specific timelines that we have to meet and then others that it's up to us how we define how we're going to spend that money or implement that program over the next five years."

Council Member Callanan: "Ok, and..."

Chairman D. Davis: "And I think one other question though...let me address, let me address what he... what Tim was saying. It's the same as our sewer system. You typically operate a very professional sewer system. You have few problems but then something happens and you have a leak into a public water. You know, they're not gonna be as hard on you as if you, if they find violations; you have problems all the time. So yeah, they have discretion to do things but DHEC, is a very strong enforcer. They don't cut you a lot of slack. I think we all know that."

Council Member Callanan: "But..."

County Attorney Nicole Ewing: "If I could just add on to that under the permit that we're under now, Richland County got involved in an enforcement action because a third party citizen filed a complaint, actually against the EPA and it filtered down to Richland County. Richland County had a program and it was deemed to not be sufficient enough. So, it's going to depend on what they think of our program. They got blasted because they had a reactive instead of a proactive program."

Council Member Callanan: "Ok and then the question that I have go back to the consulting issue, in regards to like someone like Greenville, or like City of Charleston or something like that. When you have a program that big are they still using consultants to do the work or are they taking it in house?"

Mr. Joe Fersner: "Both. They do both ways."

Council Member Callanan: "I know you're a consultant and I don't mean this insulting but, doesn't the issue come that they have a consultant really doesn't have that much of an incentive to you know, eliminate the problem as quickly as possible."

Mr. Frank Carson: "It depends on where you are in the process and that's what I said at the last presentation. At some point and I'll give you an example, we did, we relied almost exclusively on our consultants the first couple of years and we ran into a situation at the airport recently where we had to update our Storm Water Management Plan. We had to do a lot of things that a consultant normally would have done for us, but Sonia rewrote it. She did it. So we did it in house and you build up those capabilities and then after a time, when you get a routine, it's more of a repetitive thing. You're not going out. It's not all coming up with a plan and it's not that type of work. It makes more sense to hire people to do that or a different kind of contractor. So instead of paying for a \$150 an hour guy, you're paying for a \$50 an hour contractor or you're hiring somebody who might be doing something else. So it's gonna evolve as we get into the program."

Mr. Joe Fersner: "Typically what would happen is since like Clint said, you know, you don't have staff that's experienced in doing a lot of the illicit discharge detection, elimination, things like that. So, a consultant would typically come in. Train the Berkeley County staff on how to do that and then they could do it in the years...and this, just because you pass a utility fee now doesn't mean you can't adjust it. If you find out you're bringing in more money than you have to spend then you can always change that."

(Several talking at once)

Council Member Callanan: "The....so, this is based on kind of a, per home....Does this, do we budget it based on you know, what our projected amount? Will we be able to have a pretty accurate view of what stormwater is going to bring in prior to..."

Mr. Frank Carson: "Sonia, go to that table, our folks in IT...not that one, that one. Ok, this is, if you sent the bills out today and this is a comparison, this is the unincorporated area Countywide in regulate versus the regulated area in transportation impact fees only. So this is the latest information by our, from IT. The figure at the top, based on those that are in the ordinance now is \$1.15 million. A smaller area if you look at what's in the transportation impact fees, zone 1, which is what's in the stormwater ordinance is \$565,000 a year. So, that's what would be generated from the program."

Council Member Callanan: "What would be generated from the program? The top or the bottom?"

Mr. Frank Carson: "One..."

Council Member Callanan: "Both?"

Mr. Frank Carson: "Is the Countywide is the top figure. \$1.15 million."

Mr. Clint Busby: "Countywide and the unincorporated areas."

Council Member S. Davis: "Unincorporated, ain't no countywide."

Mr. Frank Carson: "That is not municipalities..."

Council Member S. Davis: "Not Jamestown..."

Council Member Callanan: "So the bottom is the municipalities?"

Mr. Frank Carson: "No, the bottom is the regular....is that transportation impact fees zone one."

Council Member S. Davis: "Impact fee zone."

Mr. Clint Busby: "That yellow area on the map."

Mr. Frank Carson: "Which is the regulated area."

Council Member Callanan: "Oh ok, I see what you're saying, so you...eighteen...ok, wonderful."

Council Member S. Davis: "And the impact fee zone, that's the urban area?"

Mr. Frank Carson: "Yes."

Council Member S. Davis: "The corporate is creating all this problem."

Mr. Frank Carson: "It's not the municipalities, it's the area, if you want an example of the kind...It's Windwood, it's Chaparral, it's Tall Pines, it's Sangaree, it's Pimlico, it's Cane Bay, it's...."

Mr. Clint Busby: "Spring Grove...."

Mr. Frank Carson: "Spring Grove. It's all those areas and everything in between."

Council Member Schurlknight: "Frank, let me ask you this make sure I got this correct. On the non-regulated and incorporated areas, Bonneau, Jamestown, we won't have any jurisdiction in those areas, correct? And also, the people that's living in those areas, they're not going to be privy. We can't charge them a fee for this, can we?"

Mr. Frank Carson: "Right."

Council Member Schurlknight: "Like we do in the other areas."

Mr. Frank Carson: "Unless they agree to it."

Council Member Schurlknight: "You say permit."

Mr. Frank Carson: "You can have, you might have some other leverage. You might say well don't expect us to come maintain your roads or maintain your drainage, or something else. There are other ways to encourage that. But...."

Council Member Schurlknight: "Which I agree what Steve's saying because a lot of this is falling on the rural areas."

Council Member S. Davis: "Let me see that."

Council Member Schurlknight: "You know like Moncks Corner is not a regulated area, correct?"

Mr. Frank Carson: "Right now. But that's probably gonna change once the census data comes out."

Council Member Schurlknight: "Hopefully it will but, I guess it gets to a fairness issue of what's fair and what's not and if those areas are taken out, you're getting smaller numbers and have to come up with more money as far as the rural people."

Chairman D. Davis: "But they're going to be responsible for their own program. Hanahan and Goose Creek are gonna be responsible..."

Council Member Schurlknight: "Right, but I'm talking about like Bonneau, Jamestown, some of the outlying area, St Stephen."

Mr. Frank Carson: "Let us do this, by the time, before the next meeting, because I think it'd be interesting to see what that number is. If they did pay, what would they be paying? So, you'd have that number because I think it might surprise you."

Council Member Schurlknight: "Ok, I'd like to get a look at that."

Mr. Frank Carson: "Surprised on how small the number is."

Council Member Schurlknight: "Is there a possibility that, and I don't have a problem talking to the Mayor of the towns, to see if there's something that we can come up with and hold this thing. Because everybody is gonna get quality drinking water. Nobody wants pollutants in the water. So that's good benefit but it's hard to swallow with them not contributing and everybody else's attitude."

Mr. Frank Carson: "Well let us get you that number because..."

Council Member S. Davis: "This Council should, I'm not in favor of the fee first of all. But, if this Council's going down that road it should, you keep referencing Berkeley County. This is not no Berkeley County. This is a select group of people in Berkeley County. You can say all you want about Berkeley County but this is not Berkeley County because it's a great majority of citizens to be carved out of it. But, what you're telling us though is if a punishment is imposed or some imposition put in place then the whole County is on the line. But when it comes to funding though, you're not putting the whole County in line and that's not right."

Council Member Callanan: "And can I bring up the point that you bring because I just thought about it in my head, I mean, if you literally add up and I want to see that figure, as I will concede that it is absolutely unfair and if you make the and hopefully if Moncks Corner's included in this then that list will be limited to St Stephen, Jamestown and Bonneau, right?"

Council Member Schurlknight: "Right."

Council Member Callanan: "Just in the incorporated areas there so it'll be a probably a very, very small amount of property owners because you exclude out farms and you know, and I'm sure some sort of protected areas. It's probably just a small, small amount of money that's actually. That are unfortunately getting a benefit that their not paying into."

Council Member Schurlknight: "Right and hopefully it comes with perception."

Council Member Callanan: "Right, I agree."

Council Member Schurlknight: "We look at the numbers and it might be mute on that because of the other areas, Daniel Island, Hanahan, Goose Creek's gonna have their own."

Council Member Callanan: "They're going to be paying it."

Council Member Schurlknight: "Right, y'all already paid that over there and won't be doubling up on ya. Wouldn't that be kind of interesting to see that number, like I said, it's a minute number."

Mr. Frank Carson: "We'll get that."

Council Member Schurlknight: "We're just trying to find a fair way to fund the project."

Chairman D. Davis: "But, you know, Steve your right. There's going to be some inequities in this thing because there's going to be some municipalities that won't have to pay."

Council Member S. Davis: "I would include the incorporated Alvin, Forty-One..."

Chairman D. Davis: "But even if you did though, they wouldn't be as large enough to have a program. That wouldn't help."

Council Member S. Davis: "But that's my whole point, you couldn't tax them though. Or put no fee on them. That's my point. Thank you, sir."

Council Member Schurlknight: "But you know the difference; I'd love to see them come in on this thing. If it makes a big enough difference, make it worth my while to do that."

Mr. Frank Carson: "Ok, we had..."

Council Member Schurlknight: "Now, I had one more question on the finance side of it. Again, say after the first fiscal year of this system we'll be going with permitting. Do y'all have account numbers that we can pull job numbers or whatever, that we can pull expenses from and give us the bottom line on. You know, we're going into \$1.4; we finish up with say \$900,000. We can adjust, start back on how much we're charging until I'm – I'm sure that's what we get, meaning we're gonna have equilibrium this week pretty much the same and now it's just finding the bottom where that line is. If I might be able to happen to ask that..."

Mr. Frank Carson: "Yes."

Council Member Schurlknight: "...so we could look at those finances."

Mr. Clint Busby: "And that's actually a permit requirement of ours to assess the fiscal resources, expenditures, and budgets in our annual report that we have to produce to DHEC. We have to provide all that information to show that we're capable..."

Council Member Schurlknight: "Right."

Mr. Clint Busby: "Of implementing and satisfying the permit requirements and do that fiscal analysis every year."



Council Member Schurlknight: "I think that's very good to do that. Show all of the expenditures, line items or whatever. What we spend, on dollar values. How much we collected and have a balance sheet at the end of the year. Looking at, this is where we are. We're looking at this much or we're in the hole. You know, we have to go and get it from somewhere else. Give us an idea for future planning."

Chairman D. Davis: "Ok, can we, let's try to get back on track."

Mr. Frank Carson: "Ok, we skipped around a little bit, but if we go back, the next major topic is the differences in the original MS4 general permit and new draft MS4 general permit. And this table...and I'll let Clint and Joe again talk about these a bit more and what are the differences on the left, you see the existing permit requirements and on the right are the requirements that are in the draft; the new draft."

Mr. Clint Busby: "And I'm not going to go over every bullet on here. Basically, what we did is go through the existing permit and the new draft permit, and look at the specific requirements. But, there are some important additional requirements that's in the new permit and on this first page I'd like to point out a couple of things like as far as our Stormwater Management Program. Things like implementing management practices, control techniques, system design and engineering methods. The existing permit references that our Stormwater Management Program should include those items. The new permit language says you shall. So, there's a lot of language in the permit that the existing permit references should or you know, it's kind of left up to us where as the new permit has more specific, more stringent requirements."

Council Member Schurlknight: "So then it's left up to you may do, do this and you may do that."

Mr. Clint Busby: "Right. They're basically telling us what we're having to do."

Council Member Schurlknight: "They're nailing you down to it."

Mr. Clint Busby: "Another point on this first page is under the new permit requirements is our Stormwater Management Program. When we developed it to satisfy the permit requirements that document itself becomes enforceable. In other words, if we fail to comply right now under our Stormwater Management Program it's a guidance document that assists us in complying with the permit requirements. Under the new permit once we develop the new Stormwater Management Program written plan, it becomes enforceable under the permit. So, we would have to comply with those requirements."

Council Member Schurlknight: "Let me ask you this, If they find us as non compliant, say contributing to the outfall and pollution, have y'all thought about any kind of fines, on there?"

Mr. Clint Busby: "We already have a Stormwater Management ordinance that we had to develop for our initial permit and it has some language in there, you know, about illicit discharges and making sure that someone who's contributing or has an illicit discharge into the outfall and there's a fine mechanism. There's a process to go through to ensure the elimination of that illicit discharge. Unfortunately, kind of like going back to Richland County with what we've been doing is kind of based on obviously, we haven't had the opportunity to go out and identify and screen these outfalls so it's been mainly on a complaint basis. Someone calls in and says someone is dumping oil into the ditch. We'll investigate it and if we find that there's a violation we'll issue a notice of violation. And there's actually been cases where we've assessed a penalty which is \$500 a day I think, fine."

Council Member Schurlknight: "Maybe somebody would have to supply, I think like give them a letter, give them a couple of days to get it clean. Whatever."

Mr. Clint Busby: "Right, we would go through a process."

Council Member Schurlknight: "And if we don't do that then we'll...and I'm just thinking about another funding mechanism for the program itself to offset....if you've got an habitual person up there that has keep on contributing, won't stop."

Mr. Clint Busby: "I think we're limited by our obviously, by our ordinances and by our code through the local....it's \$500 a day that we can assess. But again the process we would go out there and usually it would be a corrective order than procedural notice of violation; is, they still refuse to correct their deficiency then we issue a citation. But the basic framework for that, illicit discharge requirements, is already included in the ordinance. Obviously, we've got an update, but the majority of the cost implementing this program is the screening, monitoring, and the....we've got to go out and seek out and find these illicit discharges. Not on a complaint basis but actively find them. "

Council Member S. Davis: "Is the County required to pay a fee for building that they own and caused discharge in stormwater?"

Mr. Frank Carson: "Yes."

Mr. Clint Busby: "Yes."

Council Member S. Davis: "How's that fee paid, by taxpayer's money?"

Mr. Clint Busby: "Well, that's another..."

Mr. Frank Carson: "Sole estate office that you wouldn't collect otherwise. So if DHEC had an office in Berkeley County."

Council Member Callanan: "That's Federal right?"

Mr. Frank Carson: "In Federal, yes."

Council Member S. Davis: "You don't, no fee associated with it."

Mr. Frank Carson: "They do pay a fee."

Mr. Clint Busby: "But that's another element of the program that we've got to do to satisfy the program. It's called good housekeeping so every element of the County..."

Council Member S. Davis: "But if the County owns a piece of property out in the unincorporated area then they'll assess a fee on that?"

Mr. Frank Carson: "If it's developed..."

Chairman D. Davis: "Right and a building on it. Tim?"

Council Member Callanan: "We're implementing a program you know, based on these guidelines that we've never really done before and it's gonna cost a lot of money over a good period of time. Would it make sense to have someone who like one person, who's got experience on this, who's like, overseeing it so it just seems like we're, there's a lot of guess, there's a lot of guesstamets on you know, what's it gonna cost, what we're going to have to do, I mean who's the ultimate? You know, I just, I don't want the consultants driving the train. That's kind of what I'm getting at. You'd like to have somebody in house that's just making sure that they're just not taking the word of the consultant, that if this is what has to be done, that sort of thing. That's the big thing that concerns me is how is this, who's got the experience who's overseeing this to making sure that you know, what's being done is only what has to be done."

Mr. Frank Carson: "And the three of us..."

Chairman D. Davis: "We have that. Our folks are just as experienced as anybody else that's going through this right now."

Council Member Callanan: "Yeah but, so...but I guess, everyone's going through it at the same time so there's nobody that's got any experience."

Chairman D. Davis: "Yeah, I don't know that you can go out and find somebody who's run up and developed a program and has all the answers."

Mr. Frank Carson: "We talked and we talked to one another. We have the statewide and Stormwater Management Association through the Municipal Association and we have quarterly meetings and we discussed the issues and we've talked to one another and we have the Ashley Cooper Education Consortium and we have regular meetings."

Council Member Callanan: "I just saw they put a ...."

Mr. Clint Busby: "Y'all probably seen the commercial on TV about we all live downstream? I don't know if you've all seen the commercial but that's formulated from our Ashley Cooper Stormwater Consortium."

Mr. Frank Carson: "And some of the other and some of what Joe was just... Some of the figures he was reading, there's a Southeastern organization. So there's a regional organization, so you have all these figures to compare. Population and we'll get you copies. There's a pretty good report. And you can look at those comparisons."

Council Member Callanan: "And I know this comment is really not gonna get us anywhere but once we implement all the these and water quality gets worse they'll just go back and up it again."

Mr. Frank Carson: "Right."

(Unknown): "Every four years, every five years?"

Attorney Mary Shahid: "NPDS permits are good for five years."

Mr. Clint Busby: "Five years."

Chairman D. Davis: "And that's what we're going through is the Cooper River with regard to sewer discharge there. You know, they're lowering the standards. You know, when they get so close that we start doing tertiary treatment that's gonna to really increase our cost of treating our sewer; but they're constantly reviewing that."

Attorney Mary Shahid: "They're never allowed to write permits looser than your last permit. It's called anti-backsliding, every successive permit term is supposed to be more stringent, not less stringent."

Mr. Clint Busby: "And getting back to the new permit requirements, following up with what you, we're indicating Mr. Schurlknight, was the....we'll have to review and revise all ordinances to make sure that they're compatible and meet the initiative permit requirements and that may entail that comprehensive plan. That may involve subdivision regulations, zoning regulations, another stormwater management ordinance. We've gotta go back and look at the whole group of ordinances to make sure they're consistent with the goals and intent of this stormwater permit requirements. So, that's one of the elements that we have to go through."

Council Member Farley: "Are we a member of the Stormwater Association now?"

Mr. Frank Carson: "Yes, sir."

Mr. Clint Busby: "Yes, sir."

Council Member Fish: "And it's \$600 bucks a year."

Mr. Clint Busby: "We've thought...we've got a meeting coming up, these guys are meeting the 15<sup>th</sup> of September."

Council Member Farley: "And do y'all have roundtable discussions, everything, the same thing?"

Mr. Frank Carson: "Yes, sir and other things as I've said. The Stormwater Management Association is who appealed the permit. It's not just....we don't just meet and talk among ourselves we also, DHEC representatives are also members and they're there and sometimes we disagree and we go to court. And that's....you know, that's..."

Mr. Clint Busby: "And I actually testified in the appeal for the first permit."

Chairman D. Davis: "Alright. Anything else?"

Mr. Frank Carson: "Yep, move along..."

Mr. Clint Busby: "Then on the second page, these are additional requirements under what we call Permit Administration."

(Inaudible)

Mr. Clint Busby: "As I mentioned earlier we've got through our annual reports, got to include fiscal analysis, description of staff resources, annual expenditures and proposed budget necessary to ensure adequate resources to comply with and meet requirements of the MS4 permit. We've got to develop an Enforcement Response Plan on how we are gonna proceed and the process to enforce the requirements. We have to track, there's a lot of tracking requirements in this permit. Whether it's illicit discharge tracking, construction, good housekeeping; a lot of inventory and tracking. Next page then. One of the big elements of the program is discharges to impaired water bodies. This is where we're talking about that list that was handed out in .... There's a listing of 20 impaired water stations in Berkeley County. That was in your handout and that'll list the location number. Again, we're obligated and we're required under this permit to assess our outfalls and make a determination whether we're contributing or causing that impairment in that receiving water body and if we make that determination that we're contributing or causing, then we have to treat it like an illicit discharge, go back up stream, find the source of the impairment and address it. Whether it's coming from our system, County maintained system, private property; doesn't matter because one of the items we have to establish legal authority to satisfy the requirements of this permit. And, there's been some discussion about even access of going onto somebody's private property, you know, in the process that we would have to do that. If we feel that there's a violation occurring and we need access to a private property then you know, we have to do what's necessary to get access to that property to determine whether that conditions of the permit are being met. Obviously, we have to perform field screening and monitoring of every one of the outfalls. That map that's sitting on the center of the table showing the regulated area, the yellow area, as I indicated earlier, we've identified approximately 900 outfalls just in that one area. Now those are based on our GIS system talking with our Roads and Bridges Department. Looking at the aerial photos that we

have, obviously, we've got to go to those outfalls. We've got to map them in...the recommendation is to use GPS, to map the outfalls."

Council Member S. Davis: "And a majority of those outfalls you're talking about right now are currently not in the unincorporated areas?"

Mr. Clint Busby: "Those all are in the unincorporated areas."

Council Member S. Davis: "We are?"

Council Member Callanan: "Yeah, it's the white areas...."

Mr. Clint Busby: "White areas are the municipalities. We did not identify anything in the municipality."

Mr. Frank Carson: "They have to do their own under their permit and that's something we'll talk to them about and incorporate...."

Council Member S. Davis: "So anything identified in the municipality, the Town of Moncks Corner and that area are...."

Mr. Clint Busby: "Yeah, that's only in our unregulated area of the unincorporated area of the County."

Council Member S. Davis: "So the question is, nothing in there is allocated to the Town of Moncks Corner at all?"

Mr. Clint Busby: "Those are just pinpointing on where those outfalls go into the receiving water bodies. What we haven't done with that is map the drainage system upstream of those outfalls. What's draining into those outfalls? All we've identified thus far under the old permit requirement. All we're required to is to map the outfalls. Under the new permit requirements, we're required to screen them, inventory them, establish drainage basins for them; watersheds. It's an extensive list of requirements that we've got to meet for those outfalls and I would guesstimate that we probably, we probably account for maybe 80% of ones identified in the regulated area. I'm sure there's some we've missed but it's up to us to go out and find them."

Council Member Schurlknight: "Does this mean you're gonna to clean up California Branch, while we're doing it?"

Mr. Clint Busby: "Well, I was thinking of California Branch. You're talking about going to the outfall. Who wants to go with me down California Branch, to where California Branch outfalls into the Tailrace Canal?"

Council Member Schurlknight: "I believe I'll pass on that one."

Mr. Clint Busby: "I think after Hugo when they had to go in, from what I understand, they had to dynamite because it was blocking up and just getting access to it was tremendous."

Council Member Schurlknight: "And I think that's a good example of what we're having to look at. I mean what's brought all into California Branch and bringing it on into the river. They had to get it picked up someone always keeps .....swamp. With all these impervious surfaces."

Mr. Clint Busby: "Gonna be extremely complex to identify what we're contributing versus what another entity maybe contributing."

Council Member Schurlknight: "They're trying to figure out who's contributing, where it's coming from and I think that's going to be the nightmare."

Mr. Clint Busby: "Right."

Council Member Schurlknight: "Source...."

Mr. Clint Busby: "But the requirements of the permit, we have to perform the screening and monitoring of the outfalls. If we feel that there's an illicit discharge or discharges causing or contributing we have to collect samples and do the laboratory testing of that stormwater. Bottom line we have to address, we have to address all lone MS4 discharges. That's a direct..."

Council Member Call: "It looks like a job that just can't be done to me. It's an impossible; it's like an impossible task to satisfy whatever we have to satisfy. I don't know if we can ever satisfy them."

Mr. Clint Busby: "And Joe can probably attest to this more than I can but, you know, because I'm not...I'm no expert on monitoring and testing of stormwater. And, you know, how do you come to a resolution where you've got an impaired water body or receiving water body that may have a TMDL. This may be a pollutant of concern and trying to determine what percentage, what element of your system is contributing to that impairment."

Mr. Joe Fersner: "And some of the communities that have done that already, like Greenville County, have identified where some of the problems are coming from and they've had law suits versus waste water treatment operators that were causing problems. And there's, you know, once you've identified some of the sources then yes, it can be done. But, obviously that's why we're talking here tonight. It's not something that can't be done without some cost attached to it."

Council Member Call: "And then the other source there may be places that are not identified."

Mr. Clint Busby: "To complicate it even worse, the same one on that same sheet, not only do we have to address the outfalls into circus water bodies such as the lake, the river. We have to assess what our outfalls and our system may be contributing to ground water pollution."

Council Member S. Davis: "So the schools are going to get assessed a fee also?"

Mr. Frank Carson: "Yes."

Mr. Clint Busby: "Ok, we can go to the next one Sonia. Public Education and Outreach. You know, for the last five years we've been part of the Carolina Clear Program. Clemson Extension under that program has taken a regional approach to public education and participation. Early on we've gotten concurrent from DHEC that our participation in the Carolina Clear Program and the Ashley Cooper Stormwater Consortium would satisfy our permit Requirements for the public education and participation elements. Obviously, the new permit requires some additional requirements on us in terms of public education and participation. A couple elements that we have to, we have to look at and identify top priority community wide stormwater issues and hold workshops, educational materials. We're to address those high priority areas. We've had some discussion on that issue with Carolina Clear and they're looking at more of a regional approach. You know, one of the items that obviously, that we have a concern with as far as pollution is, again, going back to septic tanks. From a regional standpoint and more of the urbanized areas, there's not that many septic systems. Most of them is on public sewer. It's important to us, but it may not be important to say, the City of Charleston, or some of the other more developed areas. So from a regional standpoint, Carolina Clear is not concentrated on that area. We feel it's important enough that we're probably going to have to spend some additional money in the public education realm on some of these more community wide stormwater issues. We also, are required under the permit, to select three residential issues and three industrial commercial issues and provide some education on those aspects. That might be restaurants, auto body or auto repair shops. You know, some of those higher, potentially be higher to pollutants. Residential, some of the things you know we're getting a lot of these subdivisions with these detention ponds and those stormwater control measures that's implemented in subdivisions or maintained by HOAs. And obviously, there's a different realm or range from the degree of how well these systems are being maintained. Some HOAs maintain them and hire private consultants to maintain their pond. Others, they totally neglect it. We have to provide that education to those entities on proper maintenance of ponds, proper maintenance of septic systems or whatever it may be."

Council Member S. Davis: "How's this working out to be acquired in one year though? One year period, instead of a period of time."

Mr. Clint Busby: "No, sir. That's going to be spread over."

Council Member Schurlknight: "Clint, when you're talking about education to the public, I mean when talking about subdivisions, are we also talking about the fertilizers or pesticides all that we use in our lawns?"



Mr. Clint Busby: "If ..."

Council Member S. Davis: (Inaudible)

Mr. Clint Busby: "...fertilizer?"

Council Member Schurlknight: "Yeah."

Mr. Clint Busby: "I mean, you can go into pet waste in a subdivision. If we fill that, that is contributive to those impairments then yes, we would have to enact ordinances for picking up pet waste, limiting fertilizer application..."

Council Member Schurlknight: "I would venture to say though..."  
(Several talking at once)

Council Member S. Davis: "I got to go."

Mr. Clint Busby: "And that's what's so..."

Council Member Call: "Can I go with ya?"

Mr. Clint Busby: "That's one of the things about the permit."

Council Member S. Davis: "Since we going to pay for this."

Council Member Call: "It's all going to pay on that..."

Mr. Clint Busby: "Retention ponds, and retention ponds and subdivisions to address..."

Council Member Call: "Let's all go to jail now. We're all going to jail."

Mr. Clint Busby: "Some water and water quality for all the stormwater from subdivisions and the roads and drains under the retention pond. And if its sole condition is suitable for infiltration then that water's infiltrating into the ground water. That has to be assessed. The stormwater controls that we're requiring for one of them may be causing a problem for another of them."

Council Member S. Davis: "I've got to go."

Council Member Schurlknight: "Let me ask you this. If we start talking about retention ponds and stuff like..."

Council Member S. Davis: "Ain't nobody died, I've got to go."

Council Member Call: "Another Grandma?"

Council Member S. Davis: "Yeah, my Grandmomma's sick."

Council Member Schurlknight: "The issues that we're having now like with mining (Inaudible)...these mines that we'll be putting in parts of the County....would that give us any kind of credit towards this as a... if we changed the names of the mines to detention ponds?"

Mr. Clint Busby: "Well usually the mine is not really designed to pick up inflow from outflow ditches or existing pipes or something. I mean, it may be utilized."

Council Member Schurlknight: "Right."

Mr. Frank Carson: "If you convert them, if you convert a mine and you're going to close it out and you're going to use it for stormwater; that could. But the mining operation, being the nature of a mine is, to keep it dry. Pump that water out and that's another, that's a different regulatory permit."

Council Member Schurlknight: "But if you could, if you could, cut an in fall to it and outfall connected into the system or something?"

Chairman D. Davis: "You mean once the mine is over with?"

Council Member Schurlknight: "Once it's over with."

Chairman D. Davis: "Yeah."

Council Member Schurlknight: "Would that give us credit towards?"

Mr. Frank Carson: "It doesn't get us credit here it might be a credit...."

Council Member Schurlknight: "It helps somewhere...."

Mr. Clint Busby: "It might be a BMP that we could implement to satisfy the permit requirements."

Council Member Schurlknight: "Ok."

Mr. Clint Busby: "Best Management Practices, that's what BMP stands for."

Council Member Schurlknight: "Ok."

Mr. Clint Busby: "You know this is another big element of the program is the illicit discharge of effective elimination. Basically that saying that we've got to again go out and screen monitor all these outfalls, make a determination of what we see running into the receiving water bodies. Whether there's elicited discharges contained in that stormwater. If there's any indication it

is which obviously, visual observations not going to tell you much on what's coming out of a ditch. Which means we're going to have to do some testing and if it's determined that there's an illicit discharge then we have to establish the watersheds for those out falls and we have to do the analytical monitoring and testing; and we have a formal investigation and field assessment to track down those illicit discharges."

Council Member Call: "How are you going to determine what drains out of my yard from what my dog leaves out there?"

Mr. Clint Busby: "Well if your yard is draining into an outfall system."

Council Member Call: "It's draining into the reservoir."

Mr. Clint Busby: "It drains right into the reservoir. The reservoir is a receiving water body, the ditch that picks up the drainage from your yard; a pipe, whatever it is. Drains to the ....or you drain directly into the reservoir? That's really not an outfall. You're sheet flooring directly into the receiving water body."

Council Member Call: "Ok."

Mr. Clint Busby: "Now from a global stand point, if we feel that there's subdivisions are contributing that say fecal from pet waste, then yeah, we can develop an ordinance that says every subdivision has to enact a pickup, a pet pickup."

(Several talking)

Council Member Call: "Get called all the time..."

Chairman D. Davis: "Gotta put diapers on the horses."

Council Member Call: "Yeah, put...you know, I've got an alligator problem with my dog now. I got to stand out there and watch the dog the whole time he's outside."

Council Member Schurlknight: "Get a little pooper scooper."

Mr. Clint Busby: "Well you know there's some subdivisions in Hanahan that border onto the Goose Creek River that it calls...I think Joe was involved when he was with DHEC. Because of the impairment for fecal in the Goose Creek River, those subdivisions that had direct discharges into that receiving water body were required to implement ordinances or restricted covenants for having pet pickup."

Council Member Call: "They have their dog pound down there right by the river."

Mr. Joe Fersner: "And that goes to...."

Mr. Clint Busby: "And that goes into the covenants of the developments, so I mean, that's things we can implement on new developments."

Council Member Call: "Didn't they have their dog pound down there?"

Mr. Joe Fersner: "That goes into the cemetery sewer. Not into the stormwater drainage."

Chairman D. Davis: "It is right by the river. Right by the creek."

Council Member Call: "Goose Creek?"

Chairman D. Davis: "Turkey Creek."

Council Member Call: "Turkey Creek, excuse me."

Mr. Clint Busby: "Go to the...Sonia go to the next construction sites, stormwater runoff. You know we've been, we've been....we're pretty well into this program. We've been doing that for five years under the existing permit. We've been reviewing construction plans. We've been reviewing stormwater pollution prevention plans in association with construction. There's some additional requirements under the new permit that we have to meet. Basically, the state is now telling us under the permit that we have to review the review plans for compliance with the South Carolina Stormwater Management sediment reduction regulation which is 72300. We have to review construction plans for compliance with 72300. We also have to review the plans for compliance with new, or will be upcoming, construction general permit. I think that's out in a draft form right now?"

Mr. Joe Fersner: "Not yet."

Mr. Clint Busby: "Not yet."

Mr. Joe Fersner: "Probably not, no..."

Council Member Callanan: "Is there any way we can ship more of these costs onto the developers? I'm just kidding Tommy, I was joking around to see if you..."

Mr. Clint Busby: "Well we did, you know we do have plan reviewing and inspection fees for the construction aspect of it."

(Inaudible)

Mr. Clint Busby: "No."

Mr. Joe Fersner: "They're going to have to deal with their own construction general permit which is about to be issued by DHEC, that's what he's talking about. They're about to start much more restrictive requirements for construction projects."

Mr. Clint Busby: "And we're going to be cast under our permit to make sure the contractors are compliant with that new state permit."

Council Member Callanan: "So the state is going to have a permit and then we're gonna be tasked with making sure that they comply with it?"

Mr. Clint Busby: "That was one of the appeals that we had with the last permit. They tried to sneak in those requirements to force the local entities to administer the program for the state under what they called the..."

Attorney Mary Shahid: "Qualified..."

Mr. Clint Busby: "Qualified Local Program."

Attorney Mary Shahid: "Yeah."

Mr. Clint Busby: "We appealed that and we got that kicked out because they tried to just integrate in to those certificated coverage. Now, they put it in the permit."

Council Member Farley: "But what this is gonna do is, this is just going to raise the cost of the house another \$3,000 or \$4,000 or \$5,000 dollars to build. But, you're talking about organizing development and all of that. That's just going to put a hammer on them."

Mr. Clint Busby: "We're going to have, to have, a training program or construction contractors, engineers that do work in the county. Make sure that they are implementing proper erosion sediment control, pollution prevention, plans on construction sites."

Council Member Call: "But they're going to have, to have a permit of some kind?"

Mr. Clint Busby: "Yes sir, we already require a permit."

Council Member Call: "I mean, are they going to have to pass some kind of certification examination?"

Mr. Clint Busby: "Under the construction general permit there's the..."

Mr. Joe Fersner: "Sepsky."

Mr. Clint Busby: "Sepsky requirements. And, actually all three of our inspectors are certified."

Council Member Call: "I'm talking about contractors."

Mr. Joe Fersner: "They have to get, they have to do inspections and whoever is doing the construction site inspections has to be certified, yes."

Mr. Clint Busby: "The contractor has to hire their own inspectors. We have to inspect it and actually under the state general..."

(Inaudible)

Mr. Clint Busby: "Construction general permit. They can perform the inspection. So you've got three different levels of inspection going on."

Council Member Call: "And what do these inspections involve?"

Mr. Clint Busby: "One at the site making sure that you're implementing and maintaining their erosion setup control. Silk vents...."

Council Member Callanan: "And they put these dams up over all the storm drains at new constructions?"

Mr. Clint Busby: "Post-Construction. Based on once the construction is finished, these are like subdivisions or commercial development. Pond maintenance, permanent BMP; again, ponds or any of the control systems that were designed into the construction to address the water quality requirements or water quantity. We're required to make sure that those systems are being maintained. You take a subdivision that has four or five ponds, we have to go back and do periodic inspections to make sure that those BMP are being maintained. If they're not being maintained then we have to enforce the maintenance. Whether it's a private individual who has a pond or a gas station, or a subdivision that has a pond that the HOA maintains. Go to pollution prevention and good housekeeping. That element of a permit requirement pertain to the County operations. Whether we operate facilities, the jail, the landfill, the airport, what else? Any other ones? Joe, you just recently did the assessment."

Mr. Joe Fersner: "Oh the..."

Mr. Clint Busby: "The dog pound."

Mr. Joe Fersner: "Fleet Maintenance."

Mr. Clint Busby: "Fleet Maintenance, Roads and Bridges, their maintenance activity. We have to come up with a program to make sure that everything that we do from a County standpoint, and a facility standpoint, and an operational standpoint, incorporate good housekeeping elements to comply with pollution prevention control."

Mr. Joe Fersner: "And the really big element of the new permit on this is that they are now going to require through the new permit, inspections and periodic maintenance of all the storm water structures that are related to those County facilities."

Mr. Clint Busby: "And we also have to inventory and basically map those drainage systems that the County maintains."

Chairman D. Davis: "Just as we periodically maintain a wet well in our sewer system, we're going to have to go down storm drain to make sure that it's maintained."

Mr. Clint Busby: "And if there's permit requirements like catch basins in subdivisions, manholes, curb inlets than we've got to establish a priority for cleaning those under this program. And obviously, that's going to require us to purchase some vacuum trucks."

Council Member Callanan: "The retention ponds that...you know, let's say that you have a situation where the developer is building out a neighborhood it's in charge of maintaining a retention pond. Then it hands them over to the residents. And we're not talking an enormous development here, we're talking like maybe a small one. Who then is responsible if that pond gets just completely out of control? Is that, do we then enforce it upon the residents there that they are now responsible for bringing that pond back into..."

Mr. Clint Busby: "Every new project that comes in now, subdivisions, commercial development. We require that developer to record with the property deed a set of covenants establishing the maintenance responsibility of those permit controls as in ponds. And it's prescribed in that, when a developer comes in. He develops it, he's responsible until such time that it transfers over to the HOA. Well, that covenant runs with that property. "

Council Member Call: "Then that would be lien supported. It would be, it could be a lien against the property if it were not paid?"

Mr. Clint Busby: "That's right."

Council Member Callanan: "So then the County can then come in there and say that you guys are not meeting up the very enforcement mechanism. That's kind of what I'm asking."

Mr. Clint Busby: "Right."

Council Member Callanan: "And then the...when did that start?"

Mr. Clint Busby: "We've actually required covenants since 2008 on new subdivisions."

Council Member Callanan: "That required maintenance of the retention..."

Mr. Clint Busby: "That's right, establishing the maintenance. But again, you know, the construction and post construction elements we've been doing that basically since 2008."

Council Member Callanan: "Ok."

Mr. Clint Busby: "Under the existing permit."

Council Member Call: "Let me go, if I may, diagraphs about these inspectors. Are these people that, do they have to have any special qualifications or are they somebody we can hire in house and train? Do they have to have....do they have to be a professional engineer of some kind? What's required?"

Mr. Joe Fersner: "Currently, the requirements DHEC allows...Clemson puts on an inspector certification class called construction examiners, sediment control, I can't remember..."

Council Member Call: "Sort of like a sewer operator, sewer operator."

Mr. Joe Fersner: "Right, and it could be, yeah exactly. It's a two day, one day class? Two day class."

Mr. Clint Busby: "Yeah."

Mr. Joe Fersner: "Two day class with a certification exam that you have to attend the class and you have to take the exam. If you're a professional engineer or licensed architect or landscape architect, then you can also perform those inspections. But if you're not and you don't hold those credentials, then you have to go through the course."

Council Member Call: "Right, sort of like a plant operator."

Mr. Joe Fersner: "Exactly."

Council Member Call: "Certification. Anybody that pass class can do, operate a plant."

Mr. Joe Fersner: "Right."

Mr. Clint Busby: "And you know, the construction sites over a certain acreage, requires the DHEC; construction general permit, requires them to hire a septic certified inspector to oversee those...pollution prevention, erosion sediment control plan and then we're also required under our permit, to provide that over site and do that inspection."

Council Member Call: "So these inspections are...they can be private individuals, they don't? Or, do they have to be County employees?"

Mr. Clint Busby: "Well, under the construction general permit they're private individuals. Under our MS4 permit we're required to do it with our own inspectors. And all three of our, like I said earlier, all three of our inspectors are certified."

Council Member Call: "Ok."



Mr. Clint Busby: "And they just go recertification about a month ago. But, we have to provide that oversight even though the contractors required to hire private individuals to do the oversight of the construction site. So again, it's duplicate effort."

Council Member Call: "Oh boy, and where's the end of this section. I want to make a statement. I want to be on record. This came to us ultimately from the EPA. Am I correct?"

Mr. Joe Fersner: "Yes, that's correct."

Council Member Callanan: "I think it ultimately came from the Clean Water Act."

Council Member Call: "Well, the EPA is the source of this thing. Congress who, and I doubt there's a single...out of the 535 people in there, have any idea what they've inflicted on us. I want it to be on record for the public and Berkeley County that this is something that came from Washington, from our Congress, and I'm not trying to point out any particular Congressman or anybody, but it is not something that Berkeley County is doing just to go on their own. This is something that...it's a heavy burden. It's got serious, serious penalties. I still got, haven't gotten an answer to who goes to jail? If there's...jail? Dan goes to jail."

Mr. Joe Fersner: "Dan goes..."

Council Member Call: "But I mean, I don't want Dan to go to jail. That's silly, that's just plain silly. But I want to be on record...."

Chairman D. Davis: "I could use a vacation."

Council Member Call: "I wanna be on record that this is an EPA..."

Mr. Clint Busby: "That was our last annual report."

Council Member Call: "Wait a minute, wait a minute...This came from the US Congress and what happens is, they pass these laws and they send them to the bureaucrats to write the implementing regulations. And Congress don't vote negatively on, am I correct? They go into law automatically if Congress don't reject them and no Congressman is going to read all of this stuff. I guarantee you right now if Tim Scott or Jim Clyburn or anybody else in Congress were to read this they'd have no idea what this is. I don't when it was passed..."

Council Member Callanan: "1973, right?"

Council Member Call: "It might have been passed 25 years ago but it really bothers me that these things can go into law and our Congressman have no idea what they've done to us."

Chairman D. Davis: "Well, remember that the Congress passes the law and the rules and regulations are delegated to the agency."

Council Member Call: "There are four branches of our government. The Judicial, the Legislative, the Executive and the bureaucrats." This comes from the Bureaucrats."

Chairman D. Davis: "Right."

Council Member Callanan: "But, my understanding if correct is, how it worked is, they passed this in 1973 and then they just kind of, like a leviathan. They said we want clean water and then they create this goal and then they create this monster grows. Well, we don't have it yet so we're going to grow it some more and so on and so forth. The point being that I forget how many years later, was it 20 years later, they passed the....or 10 years or 15 years later they passed the Clean Air Act, but we just about to get wacked with that because we're about to be out of compliance there as well, so it doesn't end there."

Council Member Call: "And Tim, like Dan said a while ago. Once you get there and meet the standard..."

Council Member Callanan: "They move the goal posts."

Council Member Call: "Then they move it, move it...right."

Chairman D. Davis: "Well it's very seldom. They can't go back, they always move it forward."

Council Member Call: "Right and I always...I said at our last meeting, I asked Frank I think, how far down the road are we from having to send our storm water through a waste water treatment plant? Of course, that was a rhetorical question, but that's where we're headed folks. Is treating the water that's running off the streets basically."

Council Member Callanan: "And I've got a budget question on this. The...Ok, you showed me those figures on how much we're gonna collect in the first year?"

Mr. Frank Carson: "Yeah."

Council Member Callanan: "And it was like \$1.6 or something like that?"

Mr. Frank Carson: "\$1.15."

Council Member Callanan: "Oh, I'm sorry. I'm sorry and then you add the 3 to that? That we budgeted? We add the \$300...didn't we budget \$300,000?"

Attorney N. Ewing: "We budgeted \$382,000 out of this fee."

Council Member Callanan: "So we're able to budget without having the fee in place. Right?"

Attorney N. Ewing: "Well, we can budget, but we can't..."

Council Member Callanan: "I just didn't know whether that was coming out of that 300 was in addition or out of..."

Chairman D. Davis: "No, that's anticipating we're going to have some funding mechanism."

Council Member Callanan: "Ok, that's fine. That was fun."

Attorney N. Ewing: "Oh, we're not done."

Chairman D. Davis: "We're not done yet."

Council Member Callanan: "Oh cool."

Attorney N. Ewing: "There's two or three more pages of just the requirements yet."

Mr. Clint Busby: "Nah, I think we're finished with the..."

Attorney N. Ewing: "Oh darn."

Mr. Clint Busby: "Requirements...."

(Several talking at once)

Council Member Callanan: "No we went over that."

Mr. Clint Busby: "If anyone has any questions about it."

Mr. Frank Carson: "I think we covered the others."

Mr. Clint Busby: "Yeah."

Mr. Frank Carson: "Any other questions or, I know we have the one homework problem to do, but I'll talk to our IT folks tomorrow about and we'll have an answer at the Committee Meeting. And there's some information we're gonna compile I think and send out to you to study."

Council Member Schurlknight: "Frank if you could also look, also how much the cost difference was with the small towns that's not regulated."

Mr. Frank Carson: "Right."

Council Member Schurlknight: "If they were included. Probably won't be that much, but you could at least look and see."

Mr. Frank Carson: "Yeah, we'll have that one."

Chairman D. Davis: "Anybody have anything else that they would like for us to gather?"

Council Member Call: "I have just one more comment that keeps bugging me about this criminal penalty about putting somebody in jail over this thing. It does not make sense to hold one, one, I guess you can't put the County in jail. You have to put a person in jail. You got....and I'm serious about this. This bothers me that they can go as far as putting one of our County officials in jail instead of piling on a fine. They can put you in jail. That just...that's just not right."

Attorney N. Ewing: (Inaudible)...they put them in jail."

(Inaudible)

Chairman D. Davis: "Well, in all honesty..."

Council Member Call: "I'm serious."

Chairman D. Davis: "In all honesty..."

Council Member Call: "We're talking...I'm serious about this thing there...(Inaudible)... I telling that putting somebody in jail is stupid. That's just stupid."

Chairman D. Davis: "We had this thing with, of enforcement, on sewer for years, and years, and years. I'm not aware of anybody that's ever gone to jail. But, I'll tell ya, I'm aware of lots of service providers who have been fined very heavily for not, for violations and for not correcting them. So, I don't think anybody is ever gonna go to jail over it, but the only... if they don't do that, then the only means of getting people's attention or the local government's attention is the fines. And they don't mind doing it, just as they didn't mind doing it in the Lexington County Case."

Council Member Schurlknight: "Writing the big checks."

Council Member Call: "And I'll say again, It just looks like it's going to be impossible to comply and somebody's gonna come behind you and say we've found a place you didn't check, that you didn't, that you left off. And it's a serious violation. It's got oil, it's got fecal matter, it's got whatever and today you owe us \$27,500. That...there's something wrong with that. I just don't get....just for finding an error they can fine you \$27,500. If you fix it..."

Chairman D. Davis: "And you're right. What's even worse is the folks that are out there looking to trip you up because in the Lexington County case it was a student at the University of South Carolina, a law student, is that right?"

Attorney Mary Shahid: "Yes."

Chairman D. Davis: "That brought the action, contacted the EPA, that brought the action and I think it was relatively minor, but it was something that they overlooked and that resulted in a \$4 million dollar fine, which was reduced I think eventually, but yeah, that's exactly what..."

Council Member Call: "Well, I still don't..."

Chairman D. Davis: "Three quarters of a million I think..."

Council Member Call: "That's still a lot of money in Berkeley County."

Chairman D. Davis: "\$830,000."

Attorney N. Ewing: "That was by consent I believe."

Council Member Call: "I'm sorry?"

Attorney N. Ewing: "I think that was the consent of the negotiation agreement."

Council Member Call: "It's still a lot of money, however you pay it."

Attorney N. Ewing: "That is Richland County not Lexington. Just if anybody wanted to look it up, that you don't look up something on Lexington, you're not going to find..."

Chairman D. Davis: "Alright, does anybody have a need for other information? We pretty, it looks like we might wanna..."

Council Member Call: "Well I don't have a, let me say this, I don't have any problem with cleaning up the environment, clean water; none at all. I like, I want a nice environment as much as...but I resent this heavy handed approach all at one time. It seems like. It just, this seems like, I know it's been kind of in some phases but this is a big chunk to hit us with at one time. Now, I'm not...I'm just speaking for myself."

Chairman D. Davis: "No, I think you're speaking for everybody. I think we all agree with that."

Council Member Farley: "Mr. Chairman?"

Chairman D. Davis: "Yes, sir?"

Council Member Farley: "Move for adjournment."

Council Member Callanan: "Second."

Chairman D. Davis: "Ok, any discussion? I want to make sure everybody's got what they need before I call for a vote."

Council Member Callanan: "Aye."

Council Member Call: "Yeah, I need a bullet."

Chairman D. Davis: "Alright, all those in favor say Aye (Ayes). All those opposed Nay (No Response). We stand adjourned."

It was moved by Council Member Farley and seconded by Council Member Callanan to adjourn the Special Meeting of Berkeley County Council. The motion passed by unanimous voice vote of Council.

The meeting ended at 8:29 p.m.

S/Catherine R. Windham  
Interim Clerk to Council

September 26, 2011  
Date Approved

## **ADDENDUM**

### **NOTICE OF SPECIAL MEETING OF BERKELEY COUNTY COUNCIL**

Chairman: Mr. Daniel W. Davis, Supervisor  
Vice Chairman: Mr. Steve C, Davis, District No. 8

Members: Mr. Phillip Farley, District No. 1  
Mr. Timothy J. Callanan, District No. 2  
Mr. Robert O. Call, Jr., District No. 3  
Ms. Cathy E. Davis, District No. 4  
Mr. Dennis L. Fish, District No. 5  
Mr. Jack H. Schurlknight, District No. 6  
Mr. Caldwell Pinckney, Jr., District No. 7

A **Special Meeting of Berkeley County Council** will be held on **Monday, August 29, 2011**, at **6:00 p.m.** in the Supervisor's Conference Room, Berkeley County Administration Building, 1003 Highway 52, Moncks Corner, South Carolina.

### **ADD:**

**EXECUTIVE SESSION** to discuss matters relating to the proposed location, expansion, or the provision of services encouraging location or expansion of industries, or other businesses in the area served by the County; or discussions of negotiations incident to proposed contractual arrangements and proposed sale or purchase of property, the receipt of legal advice where the legal advice relates to a pending, threatened, or potential claim or other matters covered by the attorney-client privilege, settlement of legal claim, or the position of the County in other adversary situations involving the assertion against the County of a claim.

### **OLD BUSINESS:**

#### **Charleston Water System Agreement**

August 25, 2011  
S/Catherine R. Windham  
Interim Clerk to County Council

**NOTICE OF SPECIAL MEETING OF BERKELEY COUNTY COUNCIL**

Chairman: Mr. Daniel W. Davis, Supervisor  
Vice Chairman: Mr. Steve C. Davis, District No. 8

Members: Mr. Phillip Farley, District No. 1  
Mr. Timothy J. Callanan, District No. 2  
Mr. Robert O. Call, Jr., District No. 3  
Ms. Cathy E. Davis, District No. 4  
Mr. Dennis L. Fish, District No. 5  
Mr. Jack H. Schurlknight, District No. 6  
Mr. Caldwell Pinckney, Jr., District No. 7

A Special Meeting of Berkeley County Council will be held on **Monday, August 29, 2011, at 6:00 p.m.** in the Supervisor's Conference Room, Berkeley County Administration Building, 1003 Highway 52, Moncks Corner, South Carolina.

**WORKSHOP  
AGENDA**

**CALL TO ORDER**

**INVOCATION**

**PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA**

- A. DISCUSSION regarding Stormwater Management Utility.**
- B. DISCUSSION regarding County Council re-districting.**

**NOMINATIONS FOR MEMBERSHIP:**

**TAX ASSESSMENT REVIEW BOARD**

**Mr. F. Eugene Williams**  
**Mr. Tony Owens, Sr.**  
**Mr. Wayne Ahl**  
**Mr. Robert Newton**  
**Mr. Radford Bates**

**ADJOURNMENT**

August 24, 2011  
S/Catherine R. Windham  
Interim Clerk of County Council